INSTITVTIONS,

Or

Principal grounds of the Lawes and Statutes of *England.*

Newly and very truely *corrected and amended, with* many new and good additi-ons: *Very profitable for all sorts of* people to know, lately aug-*mented and Imprin-ted.*

William Salsbury 1655.

AT LONDON
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Cum Priuilegio.

The Prologue of the Author to the *Reader.*

Emosthenes the renowned Orator, defineth Lawe in this wise. The Lawe (saith hee) is the thing that al men ought to obey for many causes, but especially because law is the invention, and also the gift of God, the decrees of prudent men, the chastisement of offences, and finally the common suerty of a Realme, whereby it becommeth all men to liue, which be conuersant in the same. Chrisippus also, an excellent Philosopher, thus beginneth his booke of lawes. The Lawe is king of all, as well diuine as humane affaires, the president and controuler of things honest and dishoneſt, the Prince, the Captaine and the ruler of the iust and vniust, and it is of ciuil creatures, aswel the commander what they ought to doe, as the forbidder what they ought not to doe. These authentike sayings of wise men, assuredly ought much to inflame vs to the knowledge of these things without which wee shall be esteemed as no men, but as brute and sauage beasts. Let vs not commit that, that it bee said of Englishmen, as it was once said of the men of Athens, that is, that we make verie good and profitable laws, but we vse them not. Certainly there can be no greater reproch to a

cõmon weale, thẽ this. One leſſon I would we learned of the anciẽt Romane lawyer named Celſus, & that is this: the knowledge of law is not to beare away the words, but the pith and power of them. This is written, becauſe there be many which when good & holeſome lawes be made, ſeeke not to ſee them executed, and obſerued, but rather how to defraud them and to haue thẽ vnexecuted, which kind of people after the ſentence of moſt auncient Lawmakers, be no leſſe worthy of reprehenſion then they which doe expreſſly againſt the law. Now they doe (ſay they) againſt the Lawe, which do the thing which the law forbiddeth. And they defraud a Law or Statute, which, the words of the Lawe ſaued, do peruert the meaning and ſence of it.

Let vs then ſo reade the Law, that wee may beare away the ſence and meaning of them, and ſo fulfill and obſerue the lawes, that it may appeare, that they were not made in vaine. Thus doing wee ſhall pleaſe God, we ſhal be obedient ſubiects to our Prince. And finally, we ſhal ſeeke our owne weale and ſafetie.

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What is Lawe. Chap. 1.

THe Law is the direction & mi-
nistration of Justice. And Jus-
tice is (as the Emperour Iustī-
nian saith in his Institutions)
a constant and permanent will,
to render vnto euery person his right and du-
tie. The learning or prudence of lawe, is a
knowledge of diuine and humane things, a sci-
ence and perfect notice of equitie, & iniquitie, of
right or wrong.

Now forasmuch as a great portion of the
prudence, or science of the lawes of this realme
of England, consisteth in the perfit knowledge
of Estates, which men haue in landes and te-
nements, we shall first as compendiously, and
as simply and plainly as we can, treate some-
what of estates.

A diuision of Estates. Chap. 2.

WE shall therefore vnderstand, that whoso-
euer hath any estate in landes or tene-
ments, either he hath in the same onely a
chattell, or free-hold, or an inheritance. If hee Chattel.
hath an estate but for terme of certain yeres, or
at his lādlords will, then it is called a chattell,
if for terme of his life, or for an other mans Freehold.
life, it is called a freehold. And if he hath to him
and to his heires in fee simple, or in taile, then Inheritāce.
he hath an estate of inheritance.

Tenant for terme of yeares. Chap. 3.

TEnant for terme of years, is he to whom
landes or tenemēts be let for terme of cer-

taine yeares as is agréed betweene the Landlord and the tenant. And when the person to whom such lease is made, doth enter by force of the said lease, & is in possession of the same, then he is called a tenant for terme of yeares.

Rent reserued.

And here ye shall note, that if the lessour that made the lease, hath reserued vnto him a yearely rent vpon the said lease, as is accustomably vsed to be done, if the rent be behinde & vnpaid, it shall be in his election, either to enter & distraine for the rent, or to bring an action of debt against the tenant for the arrerages of the same. But in this case it is requisite, that the lessour were seased of the lands or tenements at the time of the making of the lease, for otherwise it shal be a good plee in the action of debt, for the tenant, to say the lessour had nothing in the landes & tenements at the time of the lease made, except the Lease were made by deede indented, for then the plée shall not be in the Tenaunts mouth to plead.

Action of debt.

A good plee.

Liuerie of season needeth not in a lease for terme of yeares.

And it is to be knowne, that in a Lease for terme of yeares, whether it be by deed, or without deede, there néede no liuery of seasen to bée made to the lessée, but he may enter whē he will by vertue of his Lease, without any further ceremonie of the law.

And if a man leaseth Landes for terme of yeres, though the lessour chanceth to die before the lessée doth enter, yet hee may enter well enough. Otherwise it is where liuery of seasō is to be made, as in freeholds and inheritances.

Waste.

And if the tenaunt for yeares doth waste, the Landlord may bring an action of waste against him,

him, and shall recouer the place wasted, and his treble damages.

Also if a leale for yeres be made of two seuerall things, and after the one is recouered, the lesse shall hold the other, and the rent or farme shall be appoꝛcioned. M. 12. H. 8.

Also if the tenaunt for yeares graunteth a greater estate in the land, then he hath himselfe, wherby he conueyeth the fee simple to himselfe, he shall forfeit his leale or terme. Forfaiture.

Tenant at will. Chap. 2.

TEnant at will, is hee, to whom landes or tenements be leased to haue and to holde the same at the will of the lessour. And in this case the lessour may put out his tenant at what time him listeth. But yet neuertheless, if the tenant haue sowed the groundes with Coꝛne, in this case if the lessour will enter and put out his tenaunt beforе harueſt, the law will giue him free comming and going to reape and carry his Coꝛne away, without any punishment or damages to bee sustained for his so doing, because hee knewe not at what time the lessour would enter. But otherwise it is of tenant for terme of certain yeres, for if he soweth the ground, and his terme of his leale be come out and expire beforе the coꝛne be ripe, in this case the lessour, or he in the reuertion may enter and take the Coꝛne, because it was the folly of the tenant to sow the ground, knowing the end of his terme.

In likewise, tenant at will shall haue free comminges going after the time of the lessours

entrie, to carry away his houshold stuffe & goods for a reasonable space.

We shall also understand, that he that maketh a lease at will, may reserue an annual or yearly rent, in which case if the rent be behind, he may enter very well, and distraine the goodes and chatels of the tenant, or at his election he may bring an action of debt against him.

Distres, or action of Debt.

Also it is to be knowne, that tenant at will of a house or tenement, is not bound by the order of the lawe to sustaine and repaire the houses that be decaied and ruinous, as is the tenaunt for yeares, and therefore no action of waste lieth against him: yet if he will do wilfull waste, as if he plucketh downe the houses, or cutteth down the trees: it hath been thought by the Sages of the law, that the lessour may bring an action of Trespasse against him, and shall recouer his losses thereby sustained.

Waste.

Trespasse.

And if such a tenant die, and his heire enter, in that case the lessour may haue an action of Trespasse against the heire for his entrie.

Tenant by Copy of Court roll. Chap. 5.

There is another kind of tenaunt at will, which is called Tenant by Copie of the Court Rolles. And this is, when a man is seised of a mannour, within which it hath been vsed time out of mind, that the tenants within the bounds and precinct of the said mannour, haue holden lands & tenements to them, and to their heires in fee simple, fee tayle, or for terme of life, at the will of the Lord, according to the custome of the manour. And such a

tenant

tenant cannot alien or ſell his land by his deed, for if he do, the land or tenement that is ſo alienated and ſold, is forfait into the Lords hands, but if he will alien his copyhold land to an other, he muſt according to the cuſtome, come into the Lords court, and there ſurrender it into the Lords hand, to the behoſe and vſe of him that ſhall haue the eſtate. The forme of which ſurrender is commonly vſed to be thus. Surrender.

Ad hanc Curiam venit A. de B. & ſurſum reddidit in eadem curia vnum meſuagium, &c. in manus domini, ad vſum C. de D. & heredum ſuorum, vel heredum de corpore &c. Et ſuper hoc venit prædictus C. de D. & cepit de domino in eadem curia meſuagium predictum: Habendum & tenendum ſibi, &c. ad voluntatem domini ſecundum conſuetudinem manerij, faciend' inde redditus, ſeruicia, & conſuetudines inde prius debitas & conſuetas, &c. Et dat domino pro fine, &c. Et fecit domino fidelitatem. The forme of a ſurrender.

Theſe as I ſaid be called Tenants by Copy of Court roll, becauſe they haue none other euidence to ſhew concerning their lands, ſaue only the copies of p̄ rols of their Lords court.

Neither can theſe tenaunts ſue or be ſued for ſuch Lands in the Kinges Court, by writ or otherwiſe. But if they will in any wiſe implead or ſue others for ſuch copie lands, they muſt do it by way of plaint in the Lordes Court after this forme.

A. de B. queritur verſus C. de D. de placito terræ, videlicet, de vno meſuagio, 40. acris terræ, 4. acris prati, &c. cum pertinētijs, & facit proteſtationē ſequi quærelā iſtā in natura breuis dñi Regis The forme of the plaint.

Regis assisæ mortis antecessoris ad cõmunem legem Pol' &c. Plegii de prosequendo F.O. &c. Now although some such tenants haue an inheritance according to the custome of the manour, yet in very deede they are but tenants at the will of the Lord. For as some men thinke, if the Lord will expell them, & put them forth, they haue no remedie at al, but to sue vnto their Lord by way of petition, desiring him to bee good and gracious Lorde vnto them. For if they might haue any remedie by the Law, then should they not be called (say they) tenaunts at the will of the Lord after the custome of ꝑ manour. But other men of no lesse learning and prudence, haue bẽn of contrarie iudgement, as Lord Brian chiefe Iustice, in the time of King Edward the fourth, whose opiniõ was alwaies that if such a tenant by the custome (paying his seruices) bee ejected and put forth by his Lord without cause reasonable, hee may very well bring and maintaine an action of trespasse against the Lord at the common Lawe, as appeareth termino Hillarij, An. 21. E. 4. Also Lord Danby chiefe Iustice likewise, was of the same iudgement, as appeareth termino Mich. an. 7. E. 4. where he saith, that the tenant by the Custome, is as well inheritable to haue his land after the custome, as he is that hath a freehold at the common Law: but the determinatiõ of this question, I remit to my great maisters, which can loose the knots & ambiguities of the Law. For so much as yet stil of this matter, Causidici certant, & adhuc sub Iudice lis est.

Action of Trespasse.

Also yee shall vnderstand, that the vsage of some

soune manour is, when the tenant will surrender his land to the vse of another, that hee shall take a wand or a rod in his hand, and deliuer it to the steward of the court, & the steward shall deliuer the same wand in name of seisin, to him that shall take the lande, and such a tenaunt is called a tenant by the verge. Diuers other customes there be of surrendring of Copie holde landes, which here for tedioustnesse I wil omit.

And forasmuch as tenaunts by custome of the Manour, haue by the course of the common law no freehold: therefore they be called tenaunts of base tenure. Base tenure

Also if such a tenant letteth to farme his copy hold land for longer time then a twelue moneth and a day, without the Lords licence, it is a forfaiture of his land to his Lord.

And know ye, that if this tenaunt fell any timber that groweth vpon the Land, but onely for the reparation of the same, this is waste and a forfeiture of his Copie hold.

Hitherto haue I treated of the first member of our diuision, that is to wit, of chattels, for as I said, all leases for terme of yeres, and at will, be accounted in the law, but as chattels, and be comprised vnder that name, saue that these bee called chattels reals, whereas Kine, Oxen, Horses, money, plate, corne, and such like, bee called chattels personals. Now we will proceed to the explanation of the second member, that is to say, of Free- Chattels reall and personall.

holdes,

Free

FReeholds or franke tenements a man may haue in sundrie wise, for either he is seised for terme of his owne life, or for terme of another mans life. If hee be seised for terme of his owne life, either hee hath gotten such estate by way of purchase, or else the Lawe hath instituted him thereunto. I call it by purchase, whether hee commeth vnto it by his owne bargapning & procurement, or by the gift of his friend and I call it by the operatiō or intituling of the Lawe, when a man marrieth a woman that is an inheritrix, and hath issue by her, and she dieth, now shall he haue the landes during his life, by course of the Law, and shal be called tenant by the curtesie of England.

Tenant by the curtesie

Tenant in dower.

In likewise, if a man be seised in fee simple, or fee taile of landes, and taketh a wife, and he dieth, the law giueth vnto the wife the third part of her husbands lands for terme of life, & she shall be called tenant in dower.

Tenant for terme of life Chap. 7.

TEnant for terme of life, is he ỳ holdeth lands or tenements for terme of his own life, or for terme of an others life. Howbeit the most frequent and common manner of speaking is, to call him that hath an estate for terme of his owne life, tenant for life, and him that hath an estate for terme of an others life, tenant for terme dautervie, that is to say, tenāt for terme of an others life.

Ye shall note, that like as he that maketh the leale is called the lessour, and he to whom the leale

leafe is made, is called the lessee, so he that maketh a feoffement, is called the feoffor, and he to whom the feoffement is made, the feoffee.

Also if the tenant for terme of life, or tenant for terme of another mans life, doe waste, the lessor, or he in the reuersion, shall maintaine verie wel an action of waste against him, and shall by the same recouer treble damages.

Waste.

Finally, ye shal vnderstand, that by an act of Parliament made in the xxviii. yeare of our Soueraigne Lord King Henry the eight, it is enacted, that no free-hold, nor estate of inheritance, shall passe nor take effect by reason of any bargaine and sale, except that same bee made by writing, indented, sealed, and enrolled in one of the Kinges Maiesties Courtes at westminster, or else within the countie where the land doth lie, before the Custos Rotulorum, and two Justices of Peace, and the Clerke of the Peace of the same Countie, or two of them at least, of which the said Clerke shall be one, & that such enrolment bee made, within sixe moneth after the date of such writing. And for the inrolment of euery such writing, where the land comprised therein, is not aboue the yerely value of fortie shillings, they shall take two shillings, that is, twelue pence to the Justices, and twelue pence to the Clerke. And if the land be aboue the yerely value of xl. s. then they shall take v. s. that is, ii. s. and vi. d. to the Justices, and ii. s. vi. d. to the Clerke, which shall inroll and ingrosse sufficiently in Parchment such deedes and writings, and at euerie yeres end he shal deliuer the same to the custos

Rotulorum

Rotulorum of the ſame county, to remain in his cuſtodie among other recoꝛds of the ſame countie, ſo that the parties reſoꝛting thither may ſee them. Pꝛouided, that this extend not to any tenements oꝛ hereditamẽts lying within any citie oꝛ toẅne coꝛpoꝛate, wherin the Maioꝛs, recoꝛders, oꝛ other officers haue authoꝛitie, oꝛ haue lawfully vſed to enroll any euidences oꝛ ſwꝛitings within their pꝛecinct.

Tenant by the curteſie. Chap. 8.

TEnant by the curteſie of England, is hee that hath married a wife inherited, & hath had iſſue by her, & ſhee is dead, in this caſe the Law of England permitteth and ſuffereth the huſband of ſuch wife, to receiue & keepe ſtill al his wiues land, that ſhe had either in fee ſimple, oꝛ fee taile, ſo long as he liueth. And this is by the curteſie, & vꝛbanity of England, foꝛ this thing is vſed in none other country noꝛ region. But in this, it is required that the child be vitall, that is to ſay, be boꝛne and bꝛought forth into this ẅoꝛld aliue, and therfoꝛe the common ſaying is, and hath beene, that vnleſſe the childe be heard cry, the father ſhall not be tenaunt by the curteſie, foꝛ the onely pꝛoofe and argument of life in an infant boꝛne, is the bagite and crying. Yee ſhall further moꝛe vnderſtand, that vnleſſe the huſband bee in actuall & reall poſſeſſion of his wiues landes, and ſeiſed of them in her right, hee ſhall not be tenant by the curteſie after her death. And therefoꝛe if landes diſcend to a mans wife, ſo that ſhe is tenant in the law, & to euery mans actions, yet if the huſband haue not

not made an actuall entrie during couerture and matrimonie betweene them, he ſhall not be tenant by the curteſie, for it ſhall bee reputed and iudged his folly and negligence that hee would not enter in her life time.

Otherwiſe it is of aduowſons, rents, commons, and ſuch other things, which forthwith when they diſcend, be in a man, or in a woman, without any entry or further ceremony of law.

Note, that if tenant by the curteſie of England, will ſuffer, or make any waſt in the lands or tenements that he ſo holdeth, hee is puniſhable therefore, by action of waſt brought by him in the reuerſion.

Alſo it is to be knowne, that of things that be in ſuſpence, a man ſhall not be tenant by the curteſie, and therefore if a man be tenant in fée ſimple of certain land, & doth intermarie with a womã that is the Seigniorelle or Lady of the ſame, and hath iſſue by her, & ſhe dieth, yet ſhall he not be tenant by the curteſie of the Lordſhip or Seigniory, becauſe himſelfe is tenant of the land, & therefore the Lordſhip is ſuſpended for the time, for a man cãnot be both Lord & tenãt of one thing: but if he had not bene tenant of land, he ſhould haue had the Lordſhip after the death of his wife, by the curteſie of England very well.

Alſo note, that of a right onely, a man ſhall not be tenant by the curteſie, as if a womã ſole ſeiſed in fée of lands or tenements, be diſſeiled, and after take a huſband, and they haue iſſue, and ſhe die before any reentrie made, the huſband ſhall not be tenant by the curteſie.

Note

Note further, that of a reuersion, a man shal not be tenãt by the curtesie: as if a woman sole seised of lãd in fee, make a lease to .S. for terme of life, after taketh a husband, & they haue issue, and she die, liuing the lessee for terme of life, the husband shall not be tenant by the curtesie.

Of Tenant in Dower. Chap. 9.

TEnant in Dower, is shee that hath beene married to an husband that was during the matrimonie betweene them, seised of landes or tenements in fee-simple, or fee-taile, which is now dead, & she seised of the third part of her husbands said lands for terme of her life: For by the common law of the land, if the husband be at any time during the couerture seised lawfully, whether it be by purchase, or by discẽt either in fee, or in fee taile, & die, his wife shal be indowed by the course of the cõmon law of the third sote. And in some places by an ancient custome, shee shall be indowed of the moitie, yea and though her husbãd were neuer seised actually during the couerture. Yet if the landes be cast vpõ him by the law, so that the law calleth him tenant to euery mans action, it suffiseth the woman to demand her dower: for it were vnreasonable that the negligẽce & slacknes of entring of the husbãd, should hurt the wiues title.

Dower at the common law.

Dower by custome.

Tenant by the curtesie

Otherwise it is, as it is said before of tenant by the curtesie, for if landes discend to a woman couert, and the husband for slouthfulnesse or negligẽce doth not enter in his wiues life, he shal not be tenant by the curtesie, for by al lawes the wife oweth obedience and subiection to her husband

husband, and therfore she cannot compel him to enter: but when lands descend to the wife, the husband onely hath power to enter at his pleasure.

And ye shall vnderstand, that vnlesse the wife be aboue the age of nine yeres at the time of her husbands death, she shal not be endowed by the common Law.

But it is to be knowen, that a woman may by diuers waies stoppe and preiudice her selfe of her dower: as if she commit any crime, for which she is attainted of treason, murder, or felonie, she shall haue in this case no dower, notwithstanding shee hath obtained her pardon. A woman shall haue no dower.

Also, if after the death of her husband she taketh a lease for terme of life, of the same landes whereof she is indowable, she loseth her dower of the same. Moreouer, if she depart from her husband, and liueth in adulterie with another man, and is not reconciled againe to her husband, without coherion of the Ecclesiasticall power, she loseth her dower after her husbands death. Shee shall be also barred of her dower, if shee will withhold from the heire, the charters and euidence, concerning that land whereof she asketh dower. But none other saue the heire, can withhold her dower for this cause. No dower.

It ought to bee knowen also, of what things shee may demand dower, and of what things not. Of lands, messuages, aduowsons, rēt charge, rēt seruices, or seignories in grosse, or otherwise of villaines, of commons certain, of estouers certaine, of milles, & offices, or of the profit of them, she is dowable. But of cōmons

and eſtoners ſans number, alſo of annuities, of homages, of things of pleaſure, as of ſeruice, of paiment of roſes, and ſemblable, ſhe ſhal not be endoweꝺ.

Dowment ex aſſenſu patris.

There be yet two other kinds of dower, the one is called dowment ex aſſenſu patris, that is to ſay, by the aſſent of the father, and the other is called dowment de la plus beale part, that is to ſay, of the faireſt part.

Dowment ex aſſenſu patris, is whē the father is ſeiſed of lāds in fee ſimple, & his ſon which is heir apparāt, indoweth his wife at the Church doze, whē he is eſpouled, of parcel of his fathers lands, with the aſſent of his father in writing, teſtifying the ſame aſſent, if in this caſe her huſband die, ſhe may forthwith enter into the land ſo aſſigned vnto her, without further procurement of proceſſe of law, although the father of her ſaid huſband be yet aliue, & in actuall poſſeſſion of the land. But if ſhe thus do, and take her to this indowment at the Church doze, ſhe cannot haue her dower alſo by the Common law, of the third part of al her huſbands lands, or any part or parcell of them, how be it, if ſhe will refuſe this aſſigment made vnto her at the church doze, & demaund dower at the common law, ſhe may ſo do very wel. A man may alſo indow his wife at the time of the eſpouſals, of his owne lands, the which he hath by his own poſſeſſion, and that dower is called dower ad oſtium Eccleſiæ, that is to ſay, at the Church doze.

Dowment ad oſtiū eccleſiæ.

Dowment de la plus beale part.

Dowment de la plus beale part, that is to ſay, dowment of the faireſt part ſhal be in this caſe, when a man is ſeiſed of lands which he holdeth

of

of another man by knights ſeruice, & of other lands which be of ſocage tenure, and hath iſſue, which is within the age of xiiii. years, and die, and the Lord of whom the lands is holden by knights ſeruice, entreth in the land holden of him, and the mother of the childe entreth into ſocage tenure, as gardaine in ſocage, if in this caſe the woman will bring a writ of dower againſt the Lord which is gardain in chiualry, he may plead the ſpecial matter, and ſhew how ſhe is gardaine in ſocage, & hath ſo much land, and thereupon pray the Court that ſhe may be ſuffered to endow her ſelfe of ſo much land, being in her owne cuſtodie, as amounteth to the third part of the whole lands.

And then the iudgement ſhal be, that the gardeine in chiualrie ſhall retaine the land holden of him quite from the woman, during the nonage of the ward. After which iudgement and ſentence giuen ſhe may goe, & in the preſence of her neighbours, endow her ſelf of the beſt part of that which is in her cuſtodie, amounting to the third part of the whole, and then is ſhe called tenant in dower de la plus beale.

Finally ye ſhall underſtand, that by a Statute made in the 27. yeare of our moſt dread ſoueraigne Lord, king Henry the eight, it is enacted, that where diuers perſons haue eſtates made to them and to their wiues, and to the heires of the huſband, or to the huſband and wife, and the heires of their two bodies begotten, or the heires of one of their bodies, or for terme of both or one of their liues, or any other perſons and their heires, to the vſe of An. 27. H. 8.

the husband & wife, or to the wife alone for her ioynture: in euery such case the womã shal not be suffered to demaund any dowrie of the residue of her husbands lands, of whom shee hath ioynture, against any tenant of the land. But in case she hath no such ioynter, then may shee demaund her dowrie after the course of the common law. Prouided neuertheless, that if such women be lawfully expulsed from their ioynter, or any part thereof, without fraud or coun, thē shall they bee endowed of the residue of their husbands lands, for as much as the lands shal amount vnto, out of which they were so expulsed and put forth.

Prouided also, that if lands or tenements be assured to any woman after mariage for terme of life, or likewise in ioynture (except it bee by act of Parliament) & the wife ouerliue her husband, in whose time the ioynture was made, in this case the wife may refuse the landes so appointed vnto her in ioynture, & haue her dower at the cōmon law, of such lands as her husband was seised of at any time during the couerture.

Also, if the husband committeth treason, murder, or felony, for which he is attainted, the wife shall not haue her dower.

And note, that if the husband enter into religion, and is professed, the heire shall enter into the land, but the wife getteth no dower till the husband dieth, M. 32. E. 2.

And likewise, if a man seised of land taketh a wife that is an alien borne, and dieth, shee shall not be endowed, except she be made denizen by act of Parliament. T. 3. H. 6. And note, ꝑ where

the

the wife bringeth a writ of dower, & recouereth her right, thee shall recouer no dammages, but where her husband died seised of the lands recouered.

A diuision of inheritance. Chap. 10.

HItherto haue I spoken of freholds, now it remaineth to treat of inheritances, not Damages.

that inheritaunces bee no free-holdes, for they be freeholds also: but the other estates of which I haue hetherto treated, be only free-holdes and of no higher nature, whereas an estate of inheritance, although it be a free-holde indeede, yet it is not to be called by name, sith it is after more excellent & greater estate. But ye shall vnderstand, that of inheritances some be of more amplitude & excellent then other some be, as that inheritãce which is pure, simple, and without limitation of what heirs, which kinde of inheritãce is called fee simple. But when I make a limitation of what heires, then it is called fee tayle, and of which also be two sortes, as hereafter more at large shall be declared. Now therefore the nature of fee simple is set foorth with our accustomed compendiousnesse.

Of fee simple. Chap. 11.

FEe simple is (as I saide) the most ample and large inheritaunce that can be in this realme deuised or inuented, it is that which a man hath to him and his heires, simple without any further limitation, for whether they be of his owne body begotten or not, so that they be the next of his kinne, & within the degrees, it sufficeth. Fee simple.

So then tenant in fée simple is hée that hath landes or tenements, whether it be by purchase or by difcent, to him & to his heirs & assigns for euer. For if a man wil purchase lãds in fée simple, he must néeds haue these wordes his heires in his purchase, for these be the only wordes that make the estate of inheritance. Therfore if lãds be giuen to a man for euer, & no mentiõ be made of his heires: he hath an estate but for terme of his life, because these wordes his heirs, do lacke.

Yet neuertheiesse, if a man by his testament doth deuise landes to an other, in such place or case wher the custõe or law wil serue so to doe, though he maketh no mention of heires, but saith ỹ he bequetheth to such a person such lãds to haue and to holde to him and to his assignes for euermore, here an estate of inheritance doth passe, for in testaments the wil and intent of the testator is to be pondered, and not the formall and prescript wordes of the law.

Also these terms in the law, frank mariage, & frãk almoign, that is to say, frée marriage & frée almes, doe include in thẽ wordes of inheritance.

And therefore if I giue lands to a man with my daughter in franke marriage without further addition or mention of heires, this is an estate of inheritance, as shal be hereafter declared more plentiously. So likewise it is of landes giuen to an house Ecclesiasticall in pure and franke almes. Moreouer, if land be giuen to a man and to his blood, or vnto him and to his séede, hée hath in both cases an estate of inheritance, for in the last he hath a fée taile, & in the other a fée simple. For this word séede, & blood,

and

and such like, doe imply words of inheritance.

Also if lands bee giuen to a man and to his heires males, or females, hee hath by this gift a fee simple, because it is not expressed of what bodie the issue shall come.

But now it is to be seene who be said a mans heirs in the law: ye shal therfore know that my brother or sister by the halfe blood, that is to wit by the fathers side, & not by the mothers, or contrariwise by the mothers side, & not by the fathers, shall neuer bee mine heire, nor none that come of them. Neither my bastard can be mine heire, nor mine own natural father nor mother, nor grandfather, nor grandmother can be mine heire. For it is a principle & ground of the law, that inheritance may lineally discend, but ascend it may not. And therefore if I haue lands in fee simple, and die without issue of my body, my father cannot be mine heire, but my fathers brother or sister shall, and then if my vncle or aunt die seised without issue, my father shall haue the lands as heire to mine vncle, & not as heire to me, for that cannot be. But it may go from me to mine vncle or aunt well enough, for that is not called a lineal ascention, but a collateral discent.

The halfe blood.

A bastard shal be no heire.

A ground of the law.

Also ye shall vnderstand, that a lineall discent is, when the discent is conueied in the same line of the whole blood, as grandfather, father, and sonne, and so downe. And collateral discent is of an other branche, from aboue of the whole blood, as the grandfathers brother, or fathers brother, and so discending.

Lineall and collateral discent.

And ye shall note, that by the common law of this Realme, the eldest son shall haue the whole

inheritance, and after him if he haue no issue, the second sonne, & so forth. And if I haue no sons but daughters, then shall all the daughters together inherit, which be called coparceners: but if I haue no issue at all, neither sons, ne daughters, then shal my eldest brother in heritage succede me: but if I haue no brother, then my sisters if I haue any, if not, my uncle by my fathers side, if the lands be of mine own purchase or if they discended vnto me from my father. And to be short, if there be none in life of my fathers side, the purchased land shall goe to my mothers side, & if there can be found no heire neither by my fathers side, nor yet by my mothers, then shal it escheat, as they call it, to the Lord of whō it was holden, for euery land must needs be holden of some Lord, as shall be hereafter shewed. But if landes discend vnto me by my mothers side, then if I faile of issue, the lands shal discēd only to my heires of my mothers side, and neuer to mine heirs of my fathers side: as on the contrary side, if I haue lands, or any tenements by discent from my father, or his blood, they shall neuer discend to my heires by my mothers side.

Copartners

Escheat.

Diuersitie.

And thus ye see a great difference in this behalfe, betweene purchased landes, and landes which discend from an auncestour.

If there be three sons, and the middle sonne purchase landes and die without issue, the eldest shall haue the lands, and not the yongest.

A ground of the law.

Also it is a principle in our lawe, that none can be mine heire of Lands that I holde in fee simple, vnlesse hee be mine heire by the whole blood, that is to say, both by father and mother, for

for if a man hath iſſue, two or three ſons by ſundry wiues, and the eldeſt purchaſeth landes in fee & dyeth without iſſue, his halfe brethren, I mean thoſe that be not his brethren both by the fathers ſide, and mothers ſide, ſhal not haue the land, but it ſhall goe to his vncle. Likewiſe if a man hath by his firſt wife a ſon, & a daughter, and by his ſecond wife an other ſonne, and the ſonne by the firſt wife purchaſeth landes in fee ſimple, & dieth without iſſue, the ſiſter germain, that is to ſay, both by fathers ſide and mothers, ſhal haue the lãds by diſcent as heir to her brother, & not the ponger brother, foraſmuch as the ponger brother cãnot in this caſe be heire of his elder brother, becauſe he is no brother germain vnto him. Otherwiſe it is of lãds or other hereditamẽts intailed, as ſhalbe hereafter ſpecified.

Alſo if a man be ſeiſed of lands in fee ſimple, and hath iſſue a ſon & a daughter by one wife, and after the death of his firſt wife, a ſonne by another wife, and dieth, and the eldeſt ſon entreth into the lands, and after he dieth without lawfull iſſue of his body, the daughter ſhal haue the lands, and not the yongeſt ſonne, and yet the youngeſt ſonne is heire to his father, but hee is not ſo vnto his brother. But if in this caſe the eldeſt ſonne had not entred after the death of his father, but had died before any entrie made by him, then ſhall not the ſiſter germaine enter, but the younger brother is heire to his father, becauſe the eldeſt brother was neuer in actuall poſſeſſion, which is requiſite to the perſon that claimeth to be heire collateraliy.

But to the lineall heires, it ſuffiſeth that the aunce-

auncestour should haue beene heire, if he had liued, I meane as thus. A man seiled of landes and hath issue a sonne and a daughter by one wife, and afterward a sonne by an other, he dieth, and after his death the eldest sonne entreth not, but dyeth without issue before he can make actuall entrie, heere in this case his sister shall not haue the landes as heire to her brother because her brother was not in actuall possession, but the ponger brother shall haue them, as heire to his father. yet if the eldest sonne in that case had left behind him issue of his body, whether it had beene sonne or daughter, this issue notwithstanding that the Father of the issue was neuer possessed either actually or in ye law, shall haue the landes, & shal conuey his discent from his father: the cause herof is this, that the sonne or daughter is lineall heire, whereas the brother, sister, vncle, aunt, &c. be heirs collaterall, and so ye shall obserue a diuersitie.

Diuersitie.

I call an actuall possession, when a man entreth indeed into lands, which be to him discended, but a possessiō in law is called when lands be discended to a person, & he hath not yet really & actually entred into them. For notwithstanding that he is not in actual possession, yet he is possessed in the law, that is to say, in the eye and consideration of the law he is deemed to be possessed, forasmuch as he is tenāt for euery mans action that will sue for the said landes, or else assuredly there should ensue an intollerable inconuēnīēce, as we shal more copiously open in another place. Ye shal furthermore vnderstād, that this word inheritance, is not only to be accommodate

Hæreditas quid sit.

modate and applyed to that which commeth by diſcent or ſucceſſion from a mans anceſtors or predeceſſors, but alſo to euery purchaſe in fee ſimple or fee tayle.

And note, that a man can haue no larger or greater eſtate then fee ſimple.

Of Fee tayle, Chap. 12.

YE ſhall vnderſtand, that before a certaine ſtatute called the ſtatute of weſt. ſecond there was no eſtate tayle, but all was fee ſimple, either purely, that is to ſay without condition, or at the leaſt way conditionally, as appeareth by the preamble of the ſaid eſtatute, but now ſithence the promulgation of the eſtatute, diuers formes of eſtates taile haue riſen. Weſtmin. 2 Chap. 1. Deuiſion.

Fee taile is, when it is preſcribed and limited in the gift, what ſort of heires, & by whome engendred, ſhall inherite.

As for example, I giue lands to a man and to his heires, & goe no further, this is a fee ſimple: but if I make a limitation, and adde of his body begotten, now it is a fee taile, that is to ſay, a fee or inheritance limited, preſcribed, determinate or aſſigned.

So that if I giue lands to a man and to his heires, he hath fee ſimple, but if I giue landes to him & to his heires of his body lawfully begotten, he hath but a fee taile, foraſmuch as I appoint, limit, preſcribe, & expreſſe what heires they ſhalbe, & for lacke of ſuch heirs the gift ſhal be expired and worne out, and the lands ſhalbe reuerted againe to the giuer or his heires.

But ye muſt obſerue and note, that there be two kindes of fee tayle, There is a generall tayle,

tayle, and there is a speciall tayle.

Fée tayle general is, where lands be giuen to a man and to his heires of his body begotten, without any mentioning & expressing by what woman they are begotten.

Generall tayle.

And therfore if a man be tenant in the generall tayle of lands, & taketh a wife and hath issue by her, and she dieth, and afterward hée taketh another wife, of whom he hath also other issue by her, either of these issues is inheritable to this land intailed. But if I expresse in the gift by what womã the heires shal be procreated & ingendred, then it is an especiall tayle: as for example to make the thing plain, if lands be giuẽ to a man and to his heires of his body lawfully begottẽ by Margeret his wife, this is an especiall tayle, for the issue of him begotten by another woman, shal neuer inherite by force & vertue of the tayle. Likewise it is, if lands be giuen to a woman & to the heirs of her body lawfully begottẽ (& shew not by what man) this is a generall tayle, but if I go forward & say by such a man her husband, then it is an especiall tayle.

Especiall tayle.

Also if I giue landes to a man & to his wife, and to the heires of their two bodies lawfully begotten: this is an especiall tayle, as wel in the husband as in the wife,

Franke mariage.

Semblable it is, if a man giueth landes to another man with his daughter, or kinswoman in franke mariage, this word (franke mariage) implieth an estate taile especial, and in this case as well the man as the woman hath an estate in the speciall tayle.

But if I giue landes to a man and to such a

woman

womā, & to his heirs that he hath begot of her, here the woman hath an estate but for terme of her life, and the husband an estate in the special taile. And likewise it is in the womans behalf, as if I giue lands to a man & to his wife, & to her heires of her body by her said husband engendred, he hath an estate but for terme of life, & she an estate in the special taile. But in both cases, if I had said to the heirs, & not to his or her heirs, then should either of thē haue had an estate in the special tail, because this word heirs is as well referred to the one, as to the other.

Discent by heire males

We shall also vnderstand, that if lands be giuen to a man, and to the heirs males of his body, this is an estate taile, and in this case, the heire female shall neuer inherit.

Also, if a man hath issue & dieth, and landes be giuen to him and to his heires of his body begotten, this is a good estate taile, although the father were dead at the time of the gift. Finally, it is to bee noted, that of landes which a man hath in fee simple, the possession of the brother, shall cause the sister germaine, that is to say, the sister both by the fathers side and mothers to inherit: and in this case, the brother by the halfe blood shall not inherit, as heretofore was said, but of lands which be intailed otherwise it is. Therefore, if a man be seised of lands in the generall taile, and hath issue by his first wife a sonne and a daughter; and also a sonne afterward by another wife, and dieth, and the eldest sonne entereth into the lands, and after dieth, the sister germaine to the eldest sonne shal not haue the landes, but the yonger brother of the

the haiſe blood, becauſe whoſoeuer ſhall inherite land or any other hereditaments in tayle, muſt claime them as next and immediate heire not to him that dieth laſt ſeiſed of the lands, but to him to whom the lands were firſt giuen, but to whome in the caſe before remembred, is the ſonne and heire, and not the daughter.

Diuerſitie. Thus yee ſhall marke a great diuerſitie betweene the forme of ſucceſſion in the landes of fee ſimple, and the forme in fee tayle.

Tenant after poſsibilitie of iſſue extinct. Chap. 13.

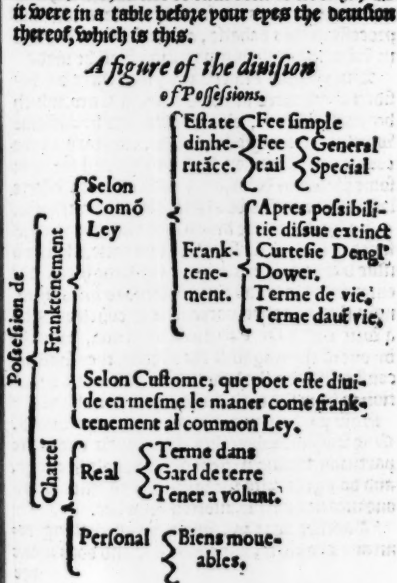
WHen lands, tenements, or other hereditaments, be giuen to a man and to his wife, and to the heires of their two bodies lawfully begotten, it is this caſe either of them chaunce to die before they haue iſſue betweene them, he or ſhe that ouerliueth, is ſtil tenant in taile, but without poſsibility of any iſſue that can be heire to theſe lands or hereditaments thus intailed, & for this cauſe he or ſhe thus ouerliuing, is called tenãt in tail after poſsibility of iſſue extinct, for in ſuch a tenant is al poſsibility of iſſue that may be inheritable to theſe lãds by force of the gift in tail vtterly extinct or quenched, & by his or her death the eſtate tail ſhal expire, ceaſe, & be abolished for euer, & ſhall reuert & turne againe to the giuer or donour from whence it came.

Diſpuniſhable of waſte Yet for aſmuch as the tenant after poſsibilitie of iſſue, had once an inheritance in him, he ſhall not bee puniſhed by an action of waſte, though he maketh neuer ſo much waſte in the lands and tenements, whereas yet in effect he is but a tenant for terme of life. But if this tenant

nant doth alien, in fee, such lands, he in the reuersion may enter for the forfeiture. Forfaiture,

And this for estates at this present time shall suffice. But to the intent that yee may the more easilie comprehend all the members of the diuision of possessions and estates which men may haue in lands, tenements, and other hereditaments, it shall not be euill done to set forth as it were in a table before your eyes the deuision thereof, which is this.

A figure of the diuision of Possessions.



Of

HItherunto I haue made a compendious & short declaration of estates of all sorts. But where I said, that among sisters there is no prerogatiue or preheminence concerning the inheriting of their auncestours lands, but that they shall be altogether inheritours, and make as it were but one heire; it is expedient to make a further declaration and processe in this behalfe, and to shew how, and in what manner this partition shall be made.

Diuision of Parceners at the Cõmon law, & parceners by custome.

But ye shall vnderstand, that there bee besides Parceners at the Common Law, which bee onely sisters, also Parceners by custome which is amongst brothers, contrary to the course of ỹ Common Law; & this custom is in some places of Kent, and in other places where lands & tenemẽts be of ỹ tenure of Gauelkind.

Ye shall therfore know, that when a man is seised of land in fee simple, or fee taile, & hath no issue but daughters, & die, & the daughters doe enter into the lands thus descended vnto them, now they be called parceners or coheires, & by a writ called De Partitione facienda, brought by one of them against the others, they shall bee constrained by the law to suffer an egall partition to be made of the lands betweẽ them.

Writ de Partitione facienda.

Partition in diuers maners.

Now partitiõ may be made in sundry wayes. One way is, when they themselues doe make partition betweẽ them of the whole heritage, and do agree vnto the same, and do enter euery one into her part so allotted vnto her.

Another way is, when by all their agreements & consent, one commõ friend doth make the

the partitiõ, In which caſe the eldeſt ſiſter ſhal haue the firſt electiõ, & after her the ſecõd ſiſter, & ſo forth. But if they agrée that the eldeſt ſiſter ſhal make the partition, & ſhée maketh it, thẽ the eldeſt ſhal not chuſe firſt, but ſhall ſuffer all her ſiſters to chuſe before her, as it is thought.

There is alſo an other ſorme of partition, which is egally to deuide the landes into ſo many parts as there be coheires or parceners, & to write euery part ſo deuided in a ſeuerall ſcroule of paper, & ſo put the ſaid ſcroules in a bonet, or to incloſe them ſeuerally in balls of waxe, & thẽ the eldeſt ſiſter to chuſe which ball ſhe will, or to put her hand into the bõnet, & to take a ſcroule, and to hold her to her chaunce & allotment, and ſo conſequently euery ſiſter after other.

And yee ſhall note, that partition by agrée- Nota.
ment, may aſwel be made by nude & bare wordes without writing, as by writing.

And if any of the parceners will not ſuffer any partition to be made, then may the other that would haue partition, purchaſe a writ called De Partitione facienda, againſt them that refuſe partition, to compell the ſame to ſuffer partition to be made accordingly, and then by the iudgement of the Court, the Shirife by the ſerement & oath of twelue men, ſhall make partition betweene them, and ſhall aſſigne to each ſiſter her portion, as he ſhall thinke good, without giuing any election of choiſe to the eldeſt. A writ de Partitione facienda.

And if two Manours or meales happen to diſcend to two ſiſters, and the manors be not of egall value, then may ſhe, to whom the leſſe manour or meale is allotted, haue aſſigned vnto

her a rent proporcionably out of the other manour, for the which rent she and her heires may distraine of common right, though they haue no writing thereof.

Distresse of common right.

Finally, ye shall vnderstand, that if a man be seised of landes in fee simple, and hath issue two daughters, & giueth with one of his daughters to an other man that shall marry her, the third or fourth part of his land in frank mariage, and dyeth, if in this case the daughter that is in this wise bestowed & aduanced, will haue her portion of her fathers heritage, shee must part her land giuen vnto her in frank mariage in Hochpot new againe. I meane she must be contented to suffer her said landes to be commixed & mingled with ye other lands of which her father died seised in fee simple, so that an equal diuision may be made of the whole, or else she shall haue no part of those lands of which her father died seised. But if her father had made vnto her a common gift in taile, or feoffement in fee, she should not nede to put her lands in Hochpot, but may very well kepe & retaine them still, & also haue as good part of the rest of the lands of which her father died seised, as her other sister or sisters haue. For a gift in franke mariage, is accompted the most free and most liberall gift that can be, and that gift which the lawe iudgeth to be onely for the aduancemēt and bestowing of the daughter, where as feoffements in fee simple, and also common gifts in tayle bee accustomably for other causes, & for the aduantage rather of the giuer, or feoffour, then of the taker.

Hochpot.

Franke marriage.

Also if parceners make partition of landes being

being within age, that partition is void.

And if parceners in fee simple make partition, and the part of the one is better then the other, being of full age of xxi. yeares, then the partition is good and cannot bee defeated, but if it be of lands in fee taile, the one part being better then the other, that partitiõ may be defeated by their heires.

Of Ioyntenants. Chap. 15.

HEtherunto verily haue we spoken of Coheires, called Parceners of the common Lawe, which as is heretofore declared, doe come to landes and other hereditaments ioyntly by the course, operation and acte of the Law. Now shall we speake somewhat of them which either iointly or severally come to lands, tenements, or other hereditamẽts by their owne purchase, acte, procurement and working. And of these, they that come to them by ioynt title, way or colour, be called ioyntenants, but they that come by severall tytles, waies, or colours, to landes or tenements bee named tenaunts in common.

Tenant in common.

So then, if a man being seised of landes or tenements, or other hereditaments, shall thereof infeoffe two, three, foure, or more, to haue & to hold to them in fee simple, fee tayle, or for terme of their lives, or for terme of an others life, these persons so enfeoffed and seised, bee called Joyntenaunts. Also if two or moe doe expell and disseise an other man of any Landes or tenements to their owne behoofe and vse, these Disseisours and wrong doers are now

become ioyntenants, because by their owne Act they come ioyntly to this land. But if they doe disseise an other man to the vse onely of one of them, in this case they be not ioyntenãts, but he to whose vse the disseisin is made, is tenant alone of the same, and the others haue nothing in the tenancy, but be called aydours or coadiutors to the disseisin.

Disseisin. And yee shall vnderstand, that a disseisin is properly, where a man entereth into any lands or tenements there wher his entrie is not lawfull, and putteth out him which hath the freehold of the same.

Survivour taketh place. And ye shall furthermore know, that the nature of ioyntenancie is, that he which surviueth & ouerliueth the other, shal haue to himself alone the whole and entire tenancie, according to that estate which he should haue had if the iointure had bene continued: as for example, three iointenants be of lands in fee simple, & the one hath issue & dieth, in this case the two which doe ouerliue their fellow, shall haue the whole lands betwen thẽ, & the issue of him that is departed getteth nothing. And if the second iointenant hath also issue & die, the third which hath ouerliued them both, shall now haue and enioy the whole, to him and to his heires for euermore.

Diuersitie. But otherwise it is of coheires which in our law is called parceners. For if there be three such coheires & parceners, & before any partitiõ made, the one haue issue a sonne or a daughter & dyeth, her portion shall discend and fall to her child, and shal not runne amongst the other ioynt heires or coparceners. Howbeit, if such parce-

parcener or coheire had died without issue, then should his portiō haue discēded to his coheirs. But how? not by force of suruiuour or ouerliuing, which in latine is called Ius accrescendi, but by very discent, for wher any of the coheirs die without issue, who can be heir to him or her so dying, but the other coheires to him or her so dying, or the rest of the coheirs if ther be many?

And like as this right of suruiuor or ouerliuing, holdeth place amongst ioyntenants of landes and tenements, so in like manner it holdeth place amōgst them which haue ioint estate or possession with others of chattels whether they be reall or personall. As (for example) if a leale of landes or tenements be made to many for terme of certaine yeares, the ouerliuer or ouerliuers, shal haue the whole during the terme by force of the same leale. So of chatels personal, if an horse, ore, grain, or other such personal chatell be giuen to many, he which ouerliueth shall haue the same alone. In semblable wise it is of debts and duties. For if an obligation be made to many for one debt, & of some other couenants & contracts, the law is likewise so. Iointenants of reall and personall goods.

Also some ioyntenaunts may be which may haue ioynt estate and be ioyntenants for terme of their liues, & yet haue seuerall inheritances. As where lands be giuen to two men & to the heires of their two bodies ingendred, in this case, these two persons haue ioynt estate for terme of their two liues. And yet they haue seuerall inheritance. For if the one haue issue and die, the other that suruiueth shall haue all by force of the suruiuour for terme of his life. Iointenants of seuerall inheritāces,

And if he that ſuruiueth hath alſo iſſue and dye, then the iſſue of the one ſhal haue the halfe of the lands, & the iſſue of the other ſhal haue the other halfe, & they ſhall holde the land betweene them in cõmon, & ſhal not be iointenants, but tenants in common, and the cauſe & reaſon why ſuch doners in ſuch caſes haue a ioynt eſtate for terme of their liues, is for that at the beginning the lãds were giuẽ to thẽ two, which words without more ſaying, make a ioint eſtate to them for terme of their liues, for if a man will let land to another by deede, or without deede, not making mention what eſtate he hath, & of this maketh liuery of ſeiſin, in this caſe the leſſee ſhal haue an eſtate for terme of his life. And if he haue no liuery of ſeiſin, he is tenant at will. And ſo forasmuch as the lands were giuẽ vnto them, they haue a ioynt eſtate for terme of their liues. But the cauſe why they haue ſeuerall inheritance, is this, for that they cannot by poſſibility haue an heire betweẽ thẽ ingendred, as a mã & woma may haue, wherefore the law will ỹ their eſtate & their inheritance ſhalbe ſuch as reaſon will, after the forme and effect of the words of the gift, and that is to the heirs, that the one ingendreth of his body, by any of his wiues, & to the heires that the other engendreth of his body by any of his wiues. So it behoueth by neceſſitie of reaſon, that they haue ſeuerall inheritances. And in ſuch caſe if the iſſue of one of them after the death of them both doth die, ſo that he hath no iſſue aliue of his body ingendred, then the doner which gaue the land, or his heires, may enter in the half as in his reuerſion though the other hath

Tenants in common.

hath issue alive. And the cause is, that forasmuch as the inheritances be seuered, therefore the reuersion in the law is seuered, & the survivour of the issue of the other shall hold no place to haue the whole. And as it is said of males, in ꝑ same maner it is wher lãds be giuen to two females and to the heires of their two bodies begotten.

Also if lands be giuen to two, & to the heires of one of them, this is a good iointenancie, and the one hath a freehold, and the other hath a fee simple, and if hee which haue fee simple die, hee that hath the freehold shal haue the whole by the survivour for terme of his life. Survivour holdeth no place.

And if these two iointenants ioyne in a gift in the taile to a stranger, reserving a rent to him that hath an estate but for his life, this reservation is voide to make a tenure. Likewise it is where tenements be giuen to two, & the heires of the body of one of them engendred, the one hath a freehold, and the other fee taile.

Note, if two iointenants be seised of an estate of fee simple, and the one granteth a rent charge by his deed to an other, out of that which to him belongeth, in this case during the life of the graunter, the rent charge is good and effectuall, but after his decease the rent charge is void, as to charge the lands, for he that hath the land by the survivour, shall hold all the land discharged, the cause is, for that he which survieth claimeth to haue the lãd by the survivour, and not by discent of his fellow. But otherwise it is of parceners or coheires, for if ther be 2. parceners in fee simple, & before any partitiõ be made, the one chargeth that, that to him belongeth Rẽt charge granted by a Iointenãt

Diuersitie.

longeth by his dede of a rent charge, and dieth without issue, here that which to him belongeth discendeth to the other parcener, & in this case the other parcener shall hold the land charged, because he commeth to the halfe by discent as here. Also if there be two iointenants in fee simple, within one borough where the lands & tenemẽts within the same borough be deuisable by testamẽt, if the one of the said iointenãts deuise that which to him belongeth by testament, & die, this deuise & legation is void. And the cause is for that, þ no deuise may take effect till after the death of the testator which bequeathed & deuised the same, & by his death al the land incontinent cõmeth by the law to his fellow that survyueth by the survyuor, which neither claimeth nor hath any thing in the land by the deuise, but in his own right by the survyuor after the course of the law, & for this cause such a deuise is void.

Deuise by testament.

A ground of the law.

But otherwise it is of Parceners seised of tenements deuisable in such case of deuise for the cause above remembred. And it is commonly said, that euery iointenant is seised of the land that he holdeth iointly per my & per tout, that is, throughout and by all. And this is as much to say, that he is seised by euery parcell & by all, which saying is true, for in euery parcell and part, and throughout all the landes and tenements he is ioyntly seised with his fellow. And therefore if the one iointenaunt make a feoffement to his companion, that is voyd, because he can make no liuery of seisin to him.

Diuersitie.

Also if 2. iointenãts be seised of certaine lands in fee simple, and thone letteth that, that to him belon-

belongeth, to a ſtranger for terme of xl. yeares and dieth within the term, in this caſe after his death the leſſee may enter and occupy the halfe to him letten during the ſaid terme, though the leſſee neuer had poſſeſſion of it in the life of the leſſour by force of the leaſe. And the difference betweene the caſe of the grant of a rent charge and this caſe is this, that in the grãt of a rent charge by a iointenant, the lands or tenements abide alway as they were afore, without that, that any hath right to haue parcell of the tenements but thẽſelues, & the tenements abide in ſuch plite as they were before the charge. But where a leaſe is made by a iointenant to an other for terme of yeares, incontinent by force of the leaſe, the leſſee hath right in the ſame land, that is to ſay, of all that, that to his leſſour belongeth, by force of the ſame leaſe during his terme. And if the leſſor in this caſe die, the other iointenant ſhall haue the rent or terme during the ſaid terme, becauſe the reuerſion is come to him by ſurmiuour. Finally, if a iopnt eſtate be made of land to the husband & wife, and to the third perſon, in this caſe the husband & the wife haue not in the law in their right but the halfe, & the third perſõ ſhall haue as much as the husband and the wife haue, that is to ſay, the other halfe: And the cauſe is, for that the husband & wife be but as one perſon in the eye of the law. And it is here in like caſe as if an eſtate be made to two iointenants, where the one hath by force of the iointure the one halfe, & the other the other halfe. In ſemblable wiſe it is wher an eſtate is made to the husband and wife, & to other two men,

Diuerſitie betweene a grant of a rent and leaſe.

men, in this case the husband and the wife haue not but the third part, and the other two men the other two parts.

Also if two or three together disseised an other of lands and tenements to their own vses, then such disseisors be called ioyntenants.

More shall be saide of this matter touching Ioyntenants in the next Chapter.

Tenants in common. Chap. 16.

TEnants in common (as I said before) be they that haue landes or tenements in fee simple, fee taile, or for terme of life, which haue such landes and tenements by seuerall tities, and not by one ioint title, and none of them knoweth that which is seuerall to him. And in this case they ought by the law before partition made betweene them, to occupy such landes and tenements in common, & undeuided, and to take the profits in common. And because they come to such landes & tenements by seuerall titles, and not by one selfe ioynt title, and their occupation & possession in the same is among them in common, they be called tenants in common, or tenãts pro indiuiso. As for example, if a man enfeoffe two ioyntenants in fee simple, & the one of them alieneth that, that to him belongeth to an other in fee, now the other ioyntenant & he to whom the alienation was made, be tenants in common, for that they be seised of such tenements by seuerall titles, for the one commeth to the one halfe by the feoffemẽt of the ioyntenant, and the other hath the other halfe by force of the first feoffement made to him and to his first fellow, and so they be in by seuerall titles, and by seuer

seuerall feoffements.

And it is to wit, that when it is said in any booke, that a man is seised in fee without more saying or addition, it shalbe vnderstood fee simple, for it shall not be vnderstood by such a word in fee, that a man is seised of fee tayle, except there be put in it such addition in tayle. Diffinition of fee only.

Also if three iointenants be, & the one of them alieneth that which vnto him belongeth to an other in fee, in this case the alienee is tenaunt in common with the other two ioyntenants. But yet the other two ioyntenants bee seised of the two parts ioyntly, & of these two parts the surrenour betweene them holdeth place. Ioyntenãts.

Also if there be two ioyntenants in fee, & the one giueth that, that vnto him belongeth to an other in the taile, the donee and the other iointenant be tenants in cõmon. But if the lands be giuen to two men, and to the heirs of their two bodies engẽdred, the donees haue a ioynt estate for terme of their liues, and if each of them haue issue and die, their issues shall hold in common.

Also if landes be giuen to two men, to haue & to holde the one halfe to the one & to his heires, and the other halfe to the other & to his heires, they be tenants in common.

Also if a man seised of certaine lands enfeoffeth an other in the halfe of the same land without any speech of assignement or limitation of the same half in seuerally, at the time of the feoffment, then the feoffee and the feoffour shall hold their parts of the land in common.

And as it of tenaunts in common of landes or tenements in fee simple, & fee tayle, euen so it

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Iointenãts. ts of tenaunt for terme of life. Therefore if two ioyntenants be in fee, & the one letteth to a man that, that vnto him belongeth for terme of life, and the other ioyntenant letteth that which to him belongeth, to an other for terme of life also, these two lessées be tenants in common for terme of their liues. Also if a man let landes to two men for terme of life, and one of them granteth all his estate to another, then that other tenant for terme of life, and he to whome the graunt is made, shall be tenants in common during the time that both the lessées be alive.

Note, if there be two ioyntenants in fee, and that one letteth that, that vnto him belõgeth, to another for terme of life: the tenant for terme of life during his life, and the other tenant that did not let, be tenants in common. And vpon this case a question may rise as thus. Let the case be that the lessor hath issue & dieth, liuing the other ioyntenant his fellow, and liuing the tenant for terme of life, the question is whether the reuersion of the halfe that the lessor hath shall discend to the issue of the lessour, or whether the other iointenant shall haue it by the suruiuour or no. And some haue said, that the other iointenant shall haue the reuersion by the suruiuour, for as much as when the iointenãts were iointly seised in fee simple, though one of them made an estate of that, that vnto him belongeth for terme of life, and though hee hath seuered the frankte-nement of that, that to him belongeth by the lease, yet he hath not seuered the fee simple.

Question.

But the fee simple abideth to them ioyntly as it was before. And so it seemeth vnto them, that the

the other ioyntenant which ſuruiueth ſhal haue the reuerſion by the ſurmuour. But other haue thought the contrary, and this is their reaſon. when one of the iointenãts letteth that which vnto him belongeth to another for terme of life, by ſuch leaſe the franktenement, is ſeuered from the ioynture. So that the reuerſion that is dependant vpon the ſame franktenement, is ſeuered from the iointure. Furthermore, if the leſſor had reſerued to him a yearly rent vpõ the leaſe, the leſſor only ſhould haue the rent, which is a proofe that the reuerſion is onely in him, & that the other hath nothing therein.

Reſceit.

Alſo if the tenãt for term of life were impleaded, and make default after default, the leſſour ſhall bee onely hereupon receiued to defend his right and not his fellow, which proueth the reuerſion of the halfe to be only in the leſſour, and ſo conſequently, if the leſſour die, liuing the leſſee for terme of life, the reuerſion ſhal diſcend to the heires of the leſſor, and ſhall not come to the other iointenãt by the ſuruiuor after theſe mens opinions, yet it is doubtfull. But in this caſe if the ioyntenant that hath the franktenement, haue iſſue and dye, liuing the leſſor and the leſſee, then it ſeemeth that the iſſue ſhall haue the halfe in his demeſne as of fee by diſcent, foraſmuch as the franktenement may not by nature of the ioynture be annexed to a reuerſion, and it is certaine that he that made the leaſe was ſeiſed of the hall in his demeſne as of fee, and that none ſhall haue any ioynture in his franktenement. So that this ſhall diſcend to his iſſue.

Quære.

If three ioyntenants be, and the one releaſeth

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by his deed to one of his fellowes al the right he hath in the land, then hath hee to whom the release is made, the third part of the lands by force of the release, and he and his fellow shall holde the other two parts iointly. And as to the third part that hee hath by force of the release, he holdeth it with himself and his fellow in common.

Release. And it is to wit, that sometime a deede of release shal take effect to put the estate of him that made the release, in him to whom the release is made as in the case aforesaid.

Also if a ioynt estate be made to the husband and wife and to a third person, & the third person releaseth his right that hee hath to the husband: then hath the husband the halfe which the third person had, and the wife of this hath nothing. Semblably, if the third person had released to the wife not naming the husband in the release, then should the wife haue the halfe that the third person had, and the husband nothing of this but in the right of his wife, because such release shall inure to put the estate in him to whom it was made of all that, that belongeth to him that made the release. Again in some case a release shall enure and serue to put all the right that a man hath that made that release in him to whom it is made. As a man being seised of certaine lands is disseised by two disseisors, if the person disseised by his deed release all his right to one of the disseisors, then he to whom the release is made shall haue and holde all to him alone and put out his fellow out of the occupation of it. And the cause is, for that the two disseisors were seised by wrong by them done a-

Diuersitie.

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gainst the law, & when one of them getteth the release of him that had right to enter, this right resteth in him to whom the release is made, and in such plight as if he that had the right had entred & infeoffed him of the same. And the cause is, for that he ℞ before had an estate by wrong, hath now by the release a rightfull estate.

Release by way of extinguishment.

And in some case a release shall inure & take effect by way of extinguishment, and such a release shall helpe the iointenant to whom the release was not made, aswell as him to whom it is made, as if a man be disseised, and the disseisour maketh a feoffement to two men in fee, if the person disseised release to one of the feoffées in fee by his deed, then such release shall inure to both the feoffées, because the feoffées haue their estate by the Law, that is to say, by the feoffement, and not by wrong done to any other.

A release shall inure to him in the remainder.

And in like maner, if the disseisour make a leale to a man for terme of life, the remainder ouer to another in fee, if the disseisee will release to the tenant for terme of life all his right, this release serueth aswell to him in the remainder, as the tenant for terme of life. And the cause is, for that the tenant for terme of life commeth to his estate by the course of the lawe, and for this cause the release shall inure and take effect by way of extinguishment of the right of him that hath released. And by this release the tenant for terme of life hath no greater estate then he had before the release made vnto him, and yet the right of him that released is all vtterly extinct & gone. Wherfore forasmuch as such a release cannot inlarge the estate of the tenant for

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terme of life, it is reason, that it shall serue him in the remainder.

Also if there be two parceners, and the one alieneth his part to an other, the other parcener and the alienee be tenants in common.

Tenants in cõmon by title of prescription.

Furthermore, tenants in common may be by title of prescription, if that one & his auncestors or they whose estate hee hath in the haile, haue holden in common the same haile with the other tenant that hath the other half, & with his auncestours, or them whose estate he hath as vndeuided time out of mind. And ye shal marke, that

Actions seuerall.

in some case tenants in common ought to haue of their possession seuerall actions, & in some case they shall ioyne in one action, for if there be two tenants in cõmon, & they be disseised, they ought to haue against the disseisor two assises, and not

Assise.

one assise. For euery of them ought to haue an Assise of his haile, because they were seised by seuerall titles. But otherwise it is of Iointenants, for if there be xx. iointenants, & they be

Assise.

disseised, they shall haue in all their names but one assise, because they haue but one ioint title.

Also if there be three iointenants, of whome the one releaseth to one of his fellowes all the right he hath, and afterward the other two be disseised of the whole, in this case they shal haue in both their names one assise of the two parts. And as to the third part, he to whom the release was made, ought to haue therof an Assise in his owne name, because as to the third part he is tenant in common.

Diuersitie.

Also as to sue actions that touch the realtie, there is a diuersitie betweene parceners that are

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in by diuers discents, and tenants in common. For if a man seised of certain lands in fee, hath issue two daughters, and die, & they enter into the landes as coheires, and each of them haue issue a sonne, and die without partition made betweene them, so that the one halfe discendeth to the sonne of thone pareener, & the other halfe to the sonne of the other, & they enter & occupie in comō, & be disseised in this case they shal haue in their two names one assise, & not two assises. And the cause is, though they come in by diuers discents, yet they be coheirs & pareeners. Also if two tenants in commō of certain lands in fee, gine the same to another man in the taile, or let it to another for terme of life, yeelding an annuitie, or certain rent, or a pound of Pepper, or an hauke, or an horse, & they be seised of these seruices, & afterward all the rent is behind, and they distraine for it, and the tenant maketh rescous, in this case as to the rent & the pound of pepper, they shal haue two assises, and as to the hauke, & the horse but one Assise. And the cause why they haue two Assises as to the rent and pound of pepper is, for that they were tenants in common by seuerall titles, & when they made a gift in the taile, for lease of terme of life, sauing and reseruing to them the reuersiō, & yeelding to them certaine rent, this reseruation is incident to their reuersion. And because their reuersion is in common and by seuerall titles, euen as their possession was before the rent and other things which may be seuered, and which were to them reserued vpon the gift, or vpō the lease which be incidēt by the same to the reuer-

Rescous.

Plaint in assise.

sion, therefore such things so seuered be of the nature of the reuersion: Wherefore it behoueth that the rent and the pound of Pepper which may be seuered to be then in common by seuerall titles. And of this they shall haue two Assises, and euery of them in his Assise shall make his plaint of the halfe of the rent, and of the halfe of the pound of Pepper. But of the hauke, and the horse, which cannot bee seuered, they shall haue but one Assise, for it were an absurdity and thing inconuenient to make a plaint in Assise of the halfe of an Hauke, or of the halfe of an horse. In like manner it is of the other rents & seruices that tenants in common haue in ground by diuers titles.

Personall action.

And ye shall vnderstand, that concerning actions personals, tenants in common ought to haue them iointly in all their names, that is to say, of trespasse, or of offences that touch their tenements in common, as of breaking of their houses, breaking of their closes, and pastures, wasting and defouling of their grasse, cutting of their woodes, and of fishing in their ponds, and such other, and they shal recouer iointly damages, because the action is in the personalty and not in the realtie.

Damages.

Tenants in common shall haue one action of debt.

Also if tenants in common make a lease of their tenements to an other for terme of yeres, yeelding vnto them yerely a certaine rent, if the rent be behind, they shall haue one action of debt against the lessee, and not diuers actions, because the action is in the personaltie. But in an auowrie for the said rent, they ought to bee seuered, because it is in the realty, as be assises.

Of

Of Chattels. Chap. 17.

IT is to be knowne, that as there be tenants in common of lands or tenements: so there be tenants in common of possessions & property of chattels, aswell reall as personall. Of reall, as if a lease bee made of certaine landes to two men for terme of twentie yeres, and when they be thereof possessed, the one granteth that, that vnto him belongeth during the terme to an other he to whome the graunt is made, and the other shall hold and occupie in common.

Also if two ioyntenants haue the ward of the body & of the landes of an heire within age, and the one of them graunteth to another that, that vnto him belongeth of the same ward, then he to whom the graunt is made, and the other that graunteth not, shall haue & hold it in common. Iointenants of a ward.

Of Chattels personals: as if two haue a ioynt estate, either by gift, or by buying of an Horse, or of an Ox, or such like, and the one of them graunteth that, that to him belongeth, here shall the grantee, and he that graunted not, haue and possesse such chattell personal in common. And in such case where diuers persons haue chattels reals or personals in common, and by diuers titles, if one of them die, the other that suruiueth shal not haue his fellowes part by the suruiuour, but the executors of him that dieth shall holde and occupie it with him that suruiueth, in like forme as their testatour did, or ought in his life, forasmuch as their titles and rights were seuerall. Also in the case aforesaide, if two haue an estate in common for terme of yeares, and the one doeth

occupie all and put the other out of his poſſeſſi-
on and occupation, then ſhall he that is put out
haue againſt the other a Writ de Eiectione firmæ
for the halfe. In ſemblable maner where two
hold the ward of landes or tenements during
the nonage of a child, if one ſhal put out the
other of his poſſeſſion, he that is out ſhall haue
a writ de Eiectione cuſtodiæ of the halfe, becauſe
theſe things be chattels reals & may be appor-
tioned & ſeuered. But no action of treſpaſſe lieth
for one againſt the other (as for example. Quare
clauſum fregit & herbam ſuam conculcauit &
conſumſit, nor ſuch like actions) foraſmuch as
each of them may enter and occupie in common.
But if two be poſſeſſed of chattels, perſonals in
common by diuers titles, as of an Horſe, an Oxe
or a Cow, if the one take it al to himſelfe out of
the poſſeſſion of the other, the other hath none
other remedie, but to take it againe from him
that hath done him the wrong, when he may ſée
his time.

A writ de Eiectione firmæ.

De Eiectione cuſtodiæ

In like maner of chattels reals, which may not
be ſeuered, as in ỹ caſe aforeſaid, where two bée
poſſeſſors of the wardſhip of the body of a child
within age, if one of them ſhall take the child
out of the poſſeſſion of the other, the other hath
no remedy by any action at the law, but to take
the child out of the others poſſeſſion, when he
ſéeth his time.

Finally, yée ſhall vnderſtand, that when a
man in pleading and declaring his cauſe, will
ſhewe a dée de of Feoffement made vnto him, or
a gift in fée taile, or a leaſe for terme of life, of
any lands or tenements, he ſhall vſe his termes
in this wiſe, & ſay, by force of ſuch feoffement,
gift,

Forme of pleading.

gift, or lease he was seised, &c.

But where a man will declare or pleade a lease or graunt made vnto him of a chattell real or personal, then he shal say by force of which he was possessed.

Of Partition to be made by Ioyntenants & tenants in common, enacted by 2. statutes made, the one in An. 31. H. 8. & the other in 32. H. 8. Chap. 18.

ALl iointenants and tenants in common of any estate of inheritance in their owne rights or in the right of their wiues, of any lands or hereditaments within this realme of England, Wales, or the Marches of the same, shall and may be compelled to make partition betweene them, of the same which they so hold as iointenants or tenants in common, by a writ de partitione facienda, to be deuised in the Chācery in like maner as coparceners are compelled to do, and the same writ to be pursued at the common law. And after such partition made, euery of the said iointenants and tenants in common, shal and may haue aide of the other, or of their heires, to the intent to dereigne the warranty parramount, & to recouer for the rate as it is vsed betweēn coparceners, after partition made by the order of the cōmon law.

Writ de partitione facienda.

Aide prayed.

Item, in the xxxii. yeare of King Henry the eight, Chap. 32. It is further enacted, that all iointenants & tenants in common which holde ioyntly or in common for terme of life, yeare or yeres: or iointenāts or tenants in cōmon, wher one or some of them haue an estate for terme of life

life or yeares, with other that haue an estate of inheritance or freehold in any landes or other hereditaments, shall be compellable by writ of Partition to be pursued out of the Chauncerie vpon their cases, to make seuerance & partition of all such landes & hereditaments as they hold ioyntly or in common for terme of life or liues, yere or yeres, or where one or some of them hold ioyntly or in common for terme of life or yeres with other that haue an estate of inheritance or Freehold. Prouided that no such partition nor seuerance be hurtfull to any person, other then such as be parties vnto the said partition. their executors or assignes.

Of Conditions. Chap. 19.

FOrasmuch as euery estate is either pure or cõditional, it were not amisse to make some declaration of the nature & efficacie of conditions. Wherefore ye shall vnderstand, that of conditions, some be actual conditions, and be called expresse conditions, or conditions in deed, and other some be conditions in law, which be called in Latin, conditiones tacitæ siue conditiones implicitæ, because they be secretly employed by the law and not expressed.

Diuision.

Conditions in deed, be such as be knit and annexed by expresse words of the Feoffement, lease or graunt, either in writing or without: as for example, if I infeoffe a man of certaine landes, reserving to me, and to my heirs, so much rent yerely to be paid at such a feast, and for default of payment, that it shall be lawfull for me to reenter, this is a Feoffement vpon condition of paiment. And here the reentre of the Feoffor

for the not payment of the rent shall dissolue and vtterly defeat the feoffemẽt. Semblable it is of gifts in taile, leases, &c. But if the condition be, that for default of payment of the rent, it shal be lawfull for the feoffour to enter againe into the lands, and to hold them till he be contented and satisfied for the rent: this condition not performed doth not dissolue nor vndoe the feoffement, but onely giueth to the feoffour an authoritie to retain the lands (as it were by way of distresse) till he hath leuied the arrerages of the rent. Distresse.

And ye shal well marke and obserue, that conditions be sometime made to be performed on the feoffees behalfe, & sometime on the feoffors behalfe. On the feoffees behalfe, as when I infeoffe you of lands or tenements, vpon condition that you shall doe such an act, as to pay vnto me or mine heires such an annuall rent. On the feoffours behalfe, as when I make a feoffement vnto you vpon condition, that if I pay or cause to be paied vnto you before such a day, such a summe of money, then it shall be lawful for me to enter againe and retaine my lands in my former estate: In this case he that is the feoffer, is called tenant in morgage, which is as much to say as dead-gage, and it seemeth that the cause why it is so called, is forasmuch as it is doubtfull whether the feoffor will pay at the day limitted & prescribed such a summe of money for the redemption of his lands, or not: for if he doe not, his title or interest in the landes thus gaged and oppignorate, is vtterly extinct and gone, without all hope of renewing. Tenants in morgoge.

Ye shall also note, that if the Morgager

dyeth before the day of payment, his heyre may redeeme the land very well, euen as well as his auncestour that morgaged the land might haue done, although there be no mention made of heires in the writing.

Also if when the mony is lawfully by the morgager or his heire tendred and profered, and the iessour refuseth to receiue the same, the feoffour or his heire may enter, & then hath the feoffee no remedie for his money at the common law. Ye shall vnderstand also, that some condi-

Conditions voide.

tions be vtterly void in the law, and of none efficacie, vertue, or strength. As if a feoffement be made of lands in fee simple vpon condition that the feoffee shall not alien or put away the same to none other, this condition I say is voide, because the feffee is restrained of his whole power that the law giueth in such case vnto him, and which power & liberty is in a maner included in euery feoffement, yet I may abridge him of part of his power, as to condition with him, that he shal not alien the lands to such a person,

Gift in taile vpon condition.

or such. But of gifts in taile otherwise it is, for if I giue landes to a man, & to the heires of his body lawfully begotte, vpon condition that he nor his heires shall alien the landes to none other person, this condition is good and effectuall in the Law, and if he or his heirs contrarie to the condition do alien them, then the giuer or his heires may very well enter and retaine the landes for euer, because this condition shall stand with the forenamed statute of Westminster the second, which prohibiteth such alienations to be made.

Hether-

Hetherunto haue I spoken of Conditions in deed, now will I shew what be Conditions in law that be annexed to any estates.

Estates vpō conditions in law.

Know ye therfore, that if the office of a Parker, Steward, Constable, Bedell, or Bailife, or such like office, be grāted to a man for terme of his life, though there be no condition at all mentioned in the grant, yet the law speaketh of a conditiō in this case, which is, that if the partie to whome such office is giuen, shall not execute all points appertaining vnto his office accordingly, by himselfe, or his lawfull deputie, it shall be lawfull for the grauntor, to enter and discharge him of his office, and this condition is called a condition in law.

Conditions against the law.

There be also three other maner of Estates vpon condition, that is to say, conditions against the law, conditions repugnant, and conditions impossible. First, estates vpon conditions against the lawe be, as if a man make a feoffement, gift, grant, or lease vpon condition, that if the feoffours, donours, grauntours, or lessours, kill I. S. which is not the kings enemy, or burne his house, that then it shal be lawfull to the feoffours, donours, &c: to reenter, this condition is void, and the estate good.

And like law is, if such conditiōs be to be performed of the part of the feoffe, graunter, &c.

But if it be, that a lease for terme of yeares be made of land vpon condition, that if the lessee kill I. S. that then he shall haue fee simple, although that he in this case performe the condition, his estate is nothing thereby inlarged, because the condition is against the law.

Also

Obligation

And yet shall vnderstand, that where an Obligation is indorsed with a condition which is against the law, both the obligation & also the condition be clearely void in the law.

Conditiõs repugnant.

Estates vpon conditions repugnant be, as if a feoffement, or a gift in tail, be made vpon condition that the feoffee or donee, shal take no profit, or shall doe no waste, and such other like, such conditions be voide, and the state good and effectuall in the law notwithstanding.

Also if a lease be made for terme of life, vpon condition that he shall not doe fealtie, that is as a void condition.

Likewise it is, if a man that hath nothing in the manour of Sale, graunteth a rent charge going out of the same, vpon condition, that the person shal not be charged, this graunt is good, and the condition is void.

Conditiõs impossible.

Estates vpon conditions impossible be, as if a feoffement be made vpon condition, that if the feoffee goeth not through the Sea on foote to Calcis in one day, then it shall be lawfull to the feoffour to reenter, this is a frustrate and void condition, and yet the estate is good.

Like law is of a lease made for terme of yeres, &c. or an obligation with a condition impossible vt supra, the obligation or lease is good, and the conditition void to all purposes.

An act how strangers shall take aduantage of Conditions made An. 32. H. 8. Chap. 20.

IT is enacted, that as well persons which haue, or shall haue any gift or graunt of the king by his Letters patents, of any landes, perso-

perſonages, titles, or other hereditaments, or any reuerſion of the ſame which did belong to any monaſtery or other eccleſiaſticall houſe diſſolued or otherwiſe come into the kings hands ſince the fourth day of Febꝛuary, in the xxvij. yere of our Soueraigne Lord king Henry the eight, or which at any time heretofore did belong to any other perſon, and after come into the kings handes, as alſo all other perſons being grauntees or aſſignees to the king or to any other perſon, their heires, executors, ſucceſſours, and aſſignes, ſhall haue like aduantage againſt the farmours, and their executors, adminiſtrators, and aſſignes, by entrie for nonpayment of the rent, or for doing waſte or other forfeiture, and alſo ſhall haue the ſame aduantage by action onely, of not performing of other conditions, couenants or agreements contayned in the indentures of their leaſes or graunts againſt the ſaid farmors, & grauntees, their executors, adminiſtrators, & aſſignes, as the ſaid leſſors or grauntors themſelues might haue had at any time. And againe mutually and on the other ſide, the ſaid farmours and grauntees for terme of yeres, life, or liues, their executors, adminiſtrators and aſſignes, ſhall haue like aduantage againſt them for any condition, couenant and agreement contained in the ſaide Indenture, as they might haue had againſt their ſaide leſſors and grauntors, their heires, ſucceſſors, all benefits and aduantages of recoueries in value, by reaſon of any warraty of deed, or in law by voucher or otherwiſe onely except.

Prouided that this Act ſhall not extend to charge

charge any person for breach of any couenant or condition comprised in any such writting, but for such as shalbe broken & not performed after the first day of September in the 32. yeare of this king and not before.

Liuery of seisin, and Attornement. Chap. 21.

IN all feoffements, gifts in taile, leases for terme of anothers life, of lands or tenements, ther can be no alteration or translatation of possession by the auncient lawes of this realm, vnlesse there be a certaine ceremony adhibited and solemnized in the presence & sight of neighbours or others, which ceremony is called liuery of seisin.

The maner of liuery of seisin.

And ye shall vnderstand, that this ceremony of liuery of seisin is done, when the feoffour, donour, lessour, or their deputie come with the neighbours solemnly to the lands or tenemẽts, & they put the feoffee, donee or lessee, in possession of the said landes or tenements, by deliuering vnto him a clod of earth, or the ring of the dore, or some other thing in the name of seisin, and for this selfe cause this ceremony of law is called liuery of seisin, that is to say, a tradition or giuing of seisin.

Diuersitie betweene possession and seisin.

But this ceremony is not required in leases for term of yeres, or in leases at will, forasmuch as the lessour in such lease remaineth stil seised, and the lessee onely hath possession without any liuery of seisin: and therefore the termes of the law be, that such a man is possessed, whereas in feoffements, gifts in tayle, and leases for life, he is called seised.

where-

Wherefore if a Feoffement or Lease for life be made of lands or tenements, & before that the liuery of seisin be made, the feoffour dieth, the heire of the feoffour shall haue the landes, Per summum ius, that is to say, by the rigour of the law, notwithstanding that the feoffes haue paid to the feoffor the price of the land, and although the feoffe, be in possession. But otherwise it is of a lease for terme of yeares.

Atturnement.

Like ceremonie is vsed when rent charge, rent seruice, rent in grosse, a villaine in grosse, common in grosse, common for beasts, certaine estouers, and such other thinges as passe by way of graunt, be graunted, for it is no full and perfect grant till it be consignat and sealed as it were with the ceremony of atturnement. This Atturnement is nothing else, but when the tenant of the land of which a rent granted is granted, or out of which a rent is graunted, doth make some euident signification and token that he accepteth the person to whom the graunt is made, to be in the same respect vnto him that the graunter was. As for an example, if the tenant of the land, after hee haue heard of the graunt, commeth to the grauntee, that is to wit, to the person to whom the graunt was made, and say in this wise, or in like effect.

How atturnement shall bee made.

I agree vnto the graunt made vnto you by such a man, or I am well apaid and contented of the graunt that such a man hath made vnto you. But the most vsuall frequent forme of atturnement is, to say; Syr, I atturne vnto you by force of the said grant, or I become your tenant, or to deliuer vnto the grauntee, a peny, or

a half peny by way of atturnement.

If a man maketh first one graunt to one person, and after another to another person, that graunt shall stand to which the tenant will atturne, although it be to the latter graunt.

And ye shall note, that if a man be seised of a manour, whiche is parcell in demeane, and parcel in seruice, and doth alien the same Manour to another, vnlesse the tenaunt of the Manour doe atturne, the seruice shall not passe, onely tenants at wil excepted, for it needeth not to cause them to atturne.

Diuersitie

Note furthermore, there is a great difference betweene giuing a peny in name of seisin, & giuing by way of atturnmēt, for when it is giuen by the tenāt to the grantee in the name of seisin, it doth not only imply an atturnmēt, but also it giueth him such a seisin, that if ẏ rent afterward were behind & not paied, he may now vpon the seisin of the peny after a lawful distresse take, & after rescous made, bring an assise of nouel disseisiu, whereas if it were giuen onely by way of atturnmēt he could not bring the assise, but his writ of rescous onely, if rescous were made.

Assise.

Writ of rescous.

Also ye shall vnderstand, that where landes be deuisable by Testament, by the custome of any auncient Borough or Citie, if the reuersion of any lands be by Testament bequeathed to a man in fee, and the Testator, which we call the Deuisor, dieth, the deuisee, that is to wit, he to whom the deuise was made, hath forthwith the reuersion in him without further ceremony of Atturnement. Likewise it is, if a man by testament doth bequeath a rent charge ẏ hee is seised

Atturnement.

sed of, or a rent seruice, there needeth none attornement at all.

If two ioyntenants be of land, and the Lord graunteth the seruices to an other, if one of the ioyntenants atturneth, it is enough.

Finally, if a lease be made for terme of life, the remainder to an other in tail, the remainder ouer to the right heire of the tenant for terme of life, in this case if the tenant for terme of life, will graunt his remainder in fee to another by his deede, this remainder passeth forthwith without any Atturnement, for if any atturnement were requisite, it should be made of the tenant for terme of life, which in this case is the grauntour himselfe. And in vaine it is that the grauntour should be inforced to atturne, sith an atturnement is adhibited & had to none other purpose then to haue the consent and agreement of the particular tenant, to the intēt that it may appeare, that he hath notice and knowledge of this graunt, but here where the particular tenant himselfe is the grantour, an atturnement were superfluous, and more then needed. Not requisite.

Note furthermore, that where there is Lord and tenaunt, and the tenant leaseth his tenements to a woman for life, the remainder ouer in fee, the woman taketh a husband, & after the Lord granteth the seruices &c. to the husband, in this case during ꝑ couerture the seruices be put in suspence. But if the wife die, liuing the husband, the husband and his heires shall haue the rent of them in the remainder, &c. And in this case ther needeth no atturnement by word, because the husbād that ought to atturne, accepteth Suspence.

teth the graunt of the seruices, the which acceptance is an attornement in the lawe.

Of Seruice. Chap. 22.

HEther vnto haue I briefly touched & ouerrun the sundry kindes and formes of Estates. Now forasmuch as there is no tenure, but hath vnto it some seruice knit and annexed, it were very necessary to declare how many kinds of seruices there be, & what seruice is due to euery tenure. For the knowledge hereof, ye shall vnderstād, that the principal and most common kind of seruice that the tenant oweth to his Lord, is called knights seruice.

Knights seruice. Chap. 23.

KNights seruice includeth homage, fealtie, & for the most part escuage, & whosoeuer holdeth his lands by Knights seruice, is bound by the lawe of this realme to do vnto his Lord homage & fealty, & to pay for the most part escuage, when it shall be assessed by authority of Parliament, as hereafter more plainly shall be declared.

Homage. Homage is the most humble and reuerent seruice that a man of free estate & condition can do, for whē the tenāt shal do homage to his Lord, the Lord shall sit, & the tenant then shall kneele downe before him vpon both knees, holding his hands betweene his Lords hands, & say in this wise: I become your man from this day forward, of life, & of member, & earthly honor, and to you shall be faithfull & true, and faith to you shall beare for the landes that I claime to holde of you: sauing the faith that I beare vnto our soueraigne Lord the king, & then the Lord sitting.

How the tenant shal do homage

sitting shall kille him. But if an Ecclesiastical person, which by his order and profession hath addicted himselfe to the seruice of God in especiall, shall do homage to his Lord, he shall say, I do to you homage, and shal be to you faithfull and true, & faith to you shall beare for the tenemẽts that I hold of you, sauing the faith which I owe to our soueraigne Lord the King. What a religious person shall say when he doth homage.

Also when a woman not maried, doth homage to her Lord, she shall not say, I become your woman, for it is not conuenient that a woman should be the woman of any other then of her husband that she shall marrie, but shall say euen as the Ecclesiasticall person saith, I doe vnto you homage &c. And if perchaunce a man holdeth sundry landes and tenements of sundry Lords, euery of them by knights seruice, then in the end of his homage making, hee shall say, sauing the faith that I owe to our soueraigne Lord the king, and to mine other Lords. And none is bound to do homage to the Lord, vnles it be such tenãt as hath in the tenancy an estate of fee simple, or fee taile, either in his own right, or in the right of an other. For if a womã haue landes and tenements in fee simple, or fee taile, which she holdeth of her Lord by knights seruice, and taketh an husband, & hath issue, in this case the husband in the life of his wife, shal doe homage, because he hath title to haue the landes by the curtesie of England, if he ouerliueth her, & also he holdeth them now in his wiues right, yet before issue had betweene them, the homage shall be made in both their names. But if the woman dieth before any homage made in her life, What a womã shall say. What tenant shall do homage.

life, and the husband keepeth still the landes as tenant by the curtesie, now hee shall not doe homage to his lord, because he hath now an estate but for terme of life.

Fealtie. Fealtie, is as much to say, as fedelitie, or faithfulnesse, in doing whereof the tenant shall

How a tenant shall doe fealty. hold his hand vppon a booke, and say thus. Heare you this my Lord, I to you shal be faithful and true, and faith to you shall beare for the lands and tenements, which I claime to holde of you, and duely shall doe to you the customes and seruices which I owe to doe to you at the termes assigned, as me helpe God. And then he shall kisse the booke. But he shall not kneele as he that doth homage, nor doe such humble or reuerent seruice as is before declared in homage.

Diuersitie betweene homage & fealtie. And ye shall obserue, that homage cannot be done but to the Lord himselfe, whereas the Steward of the Lordes court or the Bayliff may take fealtie for the Lord.

Also tenant for terme of life shall doe fealtie, but homage as I said he cannot doe.

Now as concerning Escuage, that is to say, the seruice of the shield, ye shall vnderstand, that he that holdeth his lands by escuage, when the King maketh a voiage royall into Scotland for the subduing of the Scots, is bound to be with the Kings Maiestie by the space of xl. dayes, well and conueniently arrayed and appointed for the warre. And he that holdeth his land but by the moitie of the fee of Knightes seruice, is bound by the force of his tenure to be with the King by the space of xx. dayes, and so

so proportionably according to the rate & quantitie of his tenure.

But now to our institute and purpose, after this voyage Royall into Scotland, in which the King goeth in person, and after his returne into England againe, a Parliament is wont to be summoned, in which shall be prescribed & assessed what euery person that holde his land by homage, and went not with the King, neyther by himselfe nor by his deputie, shall pay to his Lord in satisfaction of his not seruing: and according to the taxation hereof, euery tenaunt shall pay to his immediate Lord, whether it be to the king or other, after the rate and portion of his tenure, if he holdeth by a whole fee, he shal pay the whole escuage, if by a moitie the halfe, if by the fourth part of a fee, the fourth part, &c. And this money thus assessed is called scutage, or escuage, for which the Lorde to whome it is due, may very well for the non payment thereof distraine. But here it is to be noted, that some tenants by custome vsed time out of minde, are bound to pay but the moytie, or the third part of that, which shall be assessed and limitted by act of Parliament. Parliament

Distres of escuage.

Yea, and the custome is in some place, that to what summe of money soeuer Escuage is assessed, the Tenaunts shall pay neuer but such a certaine summe of money, and this kinde of escuage, is called escuage certaine, that is to say, where escuage is assessed by the Parliament, to a more or lesse summe, the Tenant to pay to the Lord v.s. and no more, nor no lesse, &c. such a tenure is called Socage tenure, & not knights

Escuage certaine.

seruice, whereas the other is called escuage vncertaine.

Escuage vncertaine.

Finally ye shall vnderstand, that escuage vncertain is alwaies adiudged to be knights seruice, and draweth vnto it, warde, mariage, and reliefe: but escuage certaine is not knights seruice, but is of the tenure of Socage, as shall be hereafter more amply shewed.

Of Ward, Mariage, and Reliefe. Chap. 24.

EVery knightes seruice draweth vnto it, warde, Mariage, and Reliefe: wherefore it is now right expedient somewhat to entreat of them.

Warde.

Ye shall therefore be admonished, that when the tenant which holdeth his lands by knights seruice dyeth, his heire male being at that time within the age of xxi. years, the Lord shal haue the ward, that is to say, the custodie or keeping of the landes so holden of him to his owne vse and profit, til the heire commeth to the full age of xxi. yeares. For the law here presumeth that till he come to his age, he is not able to do such seruice, as is of this tenure required.

Mariage.

Furthermore, if such heire be vnmaried at the time of the death of the tenant, then the lord shall haue also the ward, and the bestowing of the mariage of him.

The full age of a woman

But if a tenant, by knightes seruice dyeth, his heire female being of the age of xiiii. yeares or aboue, then the Lord shall haue the Ward neither of the land, ne yet of the body of such an heire, and the reason hereof is, because a woman of that age, may haue a husband able to do

doe knights seruice, that is to say, to wait vpon the kings Maiesties person, when he goeth into Scotland with his armie royall.

But if such an heire female be within age of xiiii yeares, and not married at the time of the death of her auncestor, then the Lord shall haue the ward of the lande holden of him, till such heire female commeth to the age of xvi. yeares, by force of an act of Parliament in the statute of Westminster 1. cap. 12.

Diuersitie of age.

Note that there is a great diuersitie in the law, betweene the ages of females & of males, for the female hath these many ages appointed by the law. First at vii. yeares of age the Lord her Father may distraine his tenaunts for aide to marrie her. Secondly, at ix. yeares of age, she is dowable. Thirdly, at xii. yeares she is able to assent to Matrimonie. Fourthly, at xiiii. yeares she is able to haue her lande, and shall be out of ward, if shee be of this age at the death of her auncestor. Fiftly, at xvi. yeares she shall be out of ward though at the death of her auncestor she was within the age of xiiii. yeares. Sixtly, at xxi. yeares shee is able to make alienations of her landes or tenements. Whereas the man hath but two ages, the one at 14. yeres to haue his landes holden in Socage, and to assent to Matrimonie, the other, at xix. to make alienations.

Age of a woman.

The age of a man.

We shall vnderstande that by the Statute of Merton, 6. Chap. it is enacted, that if in case the lords do marry their wards to villains or others (whereby is disparagement,) if such heires so married bee within the age of xiiii.

peares, or such age that the said warde cannot cõsent to the mariage, then if the friends of this heire complaine, and feele themselues greeued with this vnmeete mariage, the next of kinne to the heire, vnto whom the heritage cannot discend, may enter into the landes, and put out the Lord, which is gardeine in chualry, and if the next kinsman will not thus doe, another kinsman of the infant may doe it: And shall take the issues and profits to the behoofe and vse of the heire, and shall yeelde accompt thereof vnto him when he commeth to his full age.

Accompt giuing.

And there bee diuers other disparagements which be not expressed in the saide statute, as if the heire being within age of cõsent, & in ward, be maried to a decrepit person, or crippie, as to one that hath but one foote, or one hand, or that is a deformed creature, or hauing any horrible disease or continuall infirmitie. All these and such like be disparagements.

Diuers disparagements.

But here also ye shal vnderstand, that it shal be said no disparagement, vnlesse the heire be so maried when he is within age of discretiõ, that is to say, within the age of xiiij. yeres. For if he be of that age or aboue, & assenteth to such mariage, it is no disparagemẽt, neither shal the Lord for such mariage lose his ward, because it shalbe reputed & assigned to the folly of the heire being of age of discretion, to consent to such mariage.

Now if the Lord, then being a gardein, offer to the heire being his warde, a conuenient mariage without disparagement, & the heire refuseth it, as he may at his choise ond election very well doe, then the Lord shall haue the value of the

Value of mariage.

the mariage of such heire, when he commeth to his full age. But yet if he mary himselfe being in ward, against the will of his gardein, then he shall pay the double value by force of the statute of Merton before remembred.

Double value of mariage.

And yee shall note, that if lands holden by knights service discend to an infant or childe within age, from his mother, or from any of his auncestours, his father being yet alive, in this case the Lord shall not haue the mariage of his heire, for during the life of his father, the sonne shall be ward to no man.

One shall not beward living his father.

Finally, it is to be knowne, that he which is gardein in chiualry in right, may before he hath sealed the ward, grant the same either by deed or without deed to another man, & then he to whō such a graunt is made, is called gardein in fait.

Now as touching Reliefe, ye shall know, that if a man holdeth his land by knights seruice, & dyeth, his heire being of full age (the full age of the male is xxi. yeares, or the female xiiii.) then the Lord of whom the land is holden shal haue of the heire reliefe.

Note yee, that all Earles, Barons, or other the Kings tenants (holding of him in chiefe by knights seruice) which die, their heire being of full age at the time of their deaths, that is to say, xxi. yeares of age, they ought to pay the olde reliefe for their inheritance, that is, the heire or heires of an Earle, for an whole Earledome c. li. The heire or heires of a Baron for an whole Barony an c. Markes. The heire or heires of a Knight, one c. shillings, & he that hath lesse, shall giue lesse, according to the olde

custome of fées. Like lawe is obserued of all others that hold of any other Lords immediatly, vt supra.

Also a man may hold lands of a Lord by two knights fées, and then the heire being of full age at the death of his auncestour, shall pay to his Lord for relefe x. pounds.

Seruice of Castle garde. Chap. 25.

YE shall vnderstand, that a man may hold by knights seruice, and yet not hold by escuage, nor shal pay any escuage, for he may hold by castle garde, that is to say, by seruice to keep a tower of his Lords castle, or some other place, vpon a reasonable warning, when his Lord heareth that enemies will come, or be alreadie come into Engiond.

Ground in the law. This seruice is also knights seruice, & draweth to it, ward, Mariage, and Relefe, as in all cases the common knights seruice doth.

Of graund Sergeantie. Chap. 26.

THere is also an other kinde of knightes seruice, which is called graund sergeanty, that is, where a man holdeth his lands or tenemẽts of the king by such seruice as he oweth in proper person to do, as to beare the banner of our Soueraigne Lord the King, or his speare, or to conduct his host, or to be his Marshall, or to be the sewer, caruer, or butler, at the feast of the Coronatiõ, or to be one of his Chãberlaines of the receipt of his Eschequer, or to dos like seruice to the King in proper person, such

such manner of seruice I say is called graund Sergeantie, that is to say, a great or high seruice, and the cause why it is so called, is because it is the most honorable & most worthy seruice that is, for he that holdeth by escuage, is not appointed by his tenure, to do any other more special seruice then another is bound that holdeth by escuage: but he that holdeth by grand sergeantie, is bound to doe some speciall seruice to the king. The most high seruice.

Also if he that holdeth of the king by graund sergeanty dieth, his heire being of full age, then the heire shal pay to the king for relefe, not only C.s. as he that holdeth by escuage shal doe, but moreouer the cleare yearely value of those lands & tenements which so he holdeth of the king by graund sergeanty. Relefe of the tenant by grand sergeanty.

Furthermore ye shal obserue, that in ꝑ Marches of Scotland, some men hold of the king by cornage, that is to say, blowing of a horn, to the intent to warn the men of the Countrey, when they heare that ꝑ Scots or other their enemies be comming, or be already entred into Englād, which seruice is also a kind of graund sergeantie. Graund sergeantie therefore is as much to say in Latin, as Magnum seruitium, that is to say, a great or high seruice. Like as petie sergeantie, is called Paruum seruitium, that is to say, a little or small seruice. Tenure by Cornage. Definition of Sergeantie.

But to reuert againe to the matter, yee shall note, that if any tenāt holdeth of any other lord then of the king by such seruice of cornage, then it is no graūd sergeanty, but yet nenertheles, it is knights seruice, & draweth to it ward, mariage,

Rule in the law. riage & reliefe, for this is a rule infallible, that none can hold by graund sergeantie, but of the Kings Maiestie onely.

Finally, ye shal vnderstād, that all they which hold of the king by this seruice called grand sergeanty, do hold of the king by knights seruice, and by vertue of this tenure the king shall haue of them ward, mariage, and reliefe, but escuage yet he shall not haue of them, vnlesse they hold by escuage of him by expresse speciall words.

Petite Sergeantie. Chap. 27.

Petite sergeanty is socage in effect. TEnant by Petite Sergeantie, is he that holdeth his land immediatly of our souereigne Lorde the King by the manner of seruice to pay to the king yerely, either a Bow, a Speare, a Dagger, a payre of Gauntelets, a payre of Spurres of Gold, a Shaft, or such other small things appertaining to the warre, and this seruice is in effect but socage, because that such a tenāt is not bound by his tenure to goe, ne do any thing in his owne proper person, touching the warre, but only to render and pay yearely certaine things to the King, as a man ought to pay rent. Wherefore this seruice of petite sergeanty is no knights seruice. But yet yee shall note, that a man cannot hold either by Petie sergeanty, neither by Graund sergeanty, but of the king onely.

Homage auncestrell. Chap. 28.

TEnāt by homage auncestrell, is he which holdeth his land of his Lord by homage, and both he & his auncestors whose heire he

hee is, haue holden the ſame land of the ſaide Lord, and of his anceſtors time out of mind by homage, and haue done vnto them homage, and this is called homage aunceſtrell, by reaſon of the long continuance: which hath beene by title of preſcription, aſwell concerning the tenancie in the blood of the tenaunt, as concerning the lordſhip in the lord. And this ſeruice of homage aunceſtrel, draweth vnto it warrãty (that is to ſay) if the Lord which is now in life, hath once receiued the homage of his tenant, hee ought to warrant the ſame tenaunt what time ſoeuer he ſhall be impleaded or ſued, for ſuch lands ſo holden of him by homage aunceſtrell.

Warrantie becauſe of homage aunceſtrell.

Moreouer, ſuch ſeruice of homage aunceſtrel, draweth vnto it acquital, that is to ſay, the lord ought to acquite the tenant againſt other lords that can demand any maner of ſeruice of the tenancie.

Wherefore if in this caſe the tenaunt which holdeth by homage aunceſtrel, be impleaded of his lands, and voucheth, or calleth the Lord to warrantie, who commeth in by Proceſſe, and demaundeth of the tenaunt what hee hath to binde him to the warrantie, and the tenaunt ſheweth how he & his aunceſtors, whoſe heire he is, haue holden his landes of him and of his aunceſtours time out of minde: ſurely the Lord if he cannot denie this, and if he hath receiued the homage of ſuch a tenaunt, is bound by the Law to warrant him his land, ſo that if the tenaunt loſe his landes in default of the Lorde thus vouched, that is to ſay, called to warrantie, hee ſhall recouer againſt him as much in

value of those landes and tenements which the Lord had at the time of calling to warranty or at any time after. But if the Lord neuer receiued the homage of his tenant, then he may very well when he is thus vouched, disclaime in the Lordship or seigniory, and so put out the tenant of his warrantie. Wherefore ye shall note, that in euery case where the Lord disclaimeth in his seigniorie in Court of Record, his seignory or Lordship is extinct, and the tenant shall holde from henceforth of the next Lord to him that thus disclaimeth.

Thus ye perceiue that homage auncestrel is not, but whereas is a long continuance, as wel in the blod of the tenant in respect of his tenancy, as in the blod of the Lord in respect of his seignory. Wherefore if the tenant doth once alien his landes to an other, although hee purchase the same againe, yet he shall not hold any longer by homage auncestrel, because of his discontinuance, but shal hold it now by the vulgar and accustomed homage.

Of Liueries. Chap. 29.

Tenant in chiefe of the king.

WHē one dieth which held of the king by knights seruice in Capite, that is to say in chief, his heire being within age, the king (as before is declared) shal haue the wardship and custody, aswel of the lands as of the body, that is to wit, the mariage, if hee be vnmaried. But if the heire be of full age at the time of the death of such auncestor, yet shall the king by his prerogatiue royall haue primer seisin of al the landes, tenements, and other hereditaments,

Primer seisin.

ditaments, whereof such his tenant was seised in his demeane as of fee. And if such an heire will enter into his lands when hee commeth to his full age, before he sue his liuery and receiue seisin by the king, no free hold shall accrew nor grow vnto him, but he shal be deemed an intruder into the kings possession, yea, & if he die so seised in the meane time, his wife shall haue no dower of such land: wherefore it behoueth in any wise, that such heire aswel male as female, comming to ful age, before hee or she enter into their land, do sue liuerie. The maner and forme whereof according to the act of parliament lately promulgated and set foorth, I intend briefly to recite.

Intruder vpon the kings possession.

How heires ought to sue their liueries, enacted 33. H. 8. cap. 21. Chap. 30.

NO person or persons hauing lands or tenements aboue the yearely value of v. li. shall haue any liuery before inquisition or office found before the Eschetor or other Commissioner, by vertue of the Kings writ of Diem clausit extremum, or Commission directed out of the Chauncery or other Courts, hauing authoritie to make such a writ or Commission, which shal not passe out of the same but by warrant, or bill assigned, & subscribed by the master of wards or Liueries, the Surueior, Attorney, and Receiuer of the said Court, or three, two, or one of them to be directed and deliuered to the chauncelor of England, or to any other Chauncelor or officer hauing power to awarde such

Writ Diem clausit extremum.

such writs, and for the writing and sealing of the same, shall bee paid the accustomed fees. But if the lands exceed not the said yearely value of v. li. then they shall pay for the seales of euery such writ or commission vij. s. & for the writing vi.d. and not aboue.

And the inquisitions and offices hereupon found, shall bee returned by the said Eschetors, or Commissioners, into the same Court from whence the writ or Commissiõ was awarded, which done, the clarkes of the petie bagge shall receiue the same offices, and make a transcript thereof to the Maister of the wards and Liueries. And then the said Maister and the Surueyour, Atturney & generall Receiuor, or three of them, whereof the Maister or Surueyor to be one, shall couenant and indent with such persons for their liuery of the Castles, Manours, Lordships, landes, tenementes, and hereditaments, comprised or not comprised in such offices, and shall make and set a rate and price of the same, and appoint the dayes of payment thereof, by Obligation to be taken for the same to the king.

And euery bill, for any special or general liuery assigned, by the hands of the said Maister, surueiour, atturney, receiuour, or three of them, whereof the Maister or Surueyour to be one, shal be warrant sufficient to the Lord Chauncelor, or other Officer, hauing power to passe liueries vnder any of the kings seales accordingly. In which case the clarkes of the petty bagge, or other clarkes, by whom the liueries be written, shall receiue aswell for themselues, as for other,

other, such fees as hath beene accustomed.

Item euery person may sue at his pleasure a generall Liuery for any manours, lands, tenements, rents reuersions, remainders, or other hereditaments, whereof the cleare yearly value shall not exceede xx. li. Prouided that an office be thereof found, and a warrant first obtained of the said Maister and others, as is aforesaid. General liuerie.

And where such general liuery is sued, if the landes exceede the yearely value of v. li. they shall pay for the Seale xx. s. iiij. d. & all other fees accustomed, as afterward shal be declared. But if they exceed not the yearely value of v. li. they shall pay but these fees following: that is to say, For the seale of the liuery xij. d. To the Clarkes of the petie bagge for the writting, and the inrolling xx. d. For the respect of the homage in the Hanapar viij. d. To the Lorde great Chamberlaine xx d. To the Maister of the Rolles xx. d. And the Clarke of the Liueries for the warrant and inrolling of the Liuerie xx. d.

Item no person or persons shall pay in the Exchequer, or any other Courts for the respect of homage, for any landes or hereditaments not exceeding the yearely value of v. li. aboue viij. d. And for the entring thereof, and warrant of atturney, aboue iiij. d. Respect of homage.

And the value of such landes and hereditaments not exceeding the yearely value of xx. li. shall bee taken as it is limitted in the offices founden thereof, except by the examinations and certificate of the said Maister, Surueyour, Atturney & receiuor, or three of them, it shall other-

otherwise appeare and be declared in any of the kings Courts.

Also no Escheatour shal sit only by vertue of his office, for inquirie of the tenure, title, or value of any lands or other hereditaments holden of the king, being of the yeerely value of v. li. or aboue, without the kings writ to him directed, vpon paine to forfait v li. for euery time he shal so do. Neither shal he take for the finding of any office of lands not exceeding the yeerely value of v. li. aboue xv s. that is to say, vi. s. viii. d. for his owne fee, and iii. s iiii d. for the writing of the office. And for the charges of ỹ Jurie iii. s. And for the officers that shal receiue the offices in any Court of record ii. s. vpon paine that the Escheator doing otherwise, shall for euery time forfait v. li. And vpon like paine the officers of euery Court of record where such inquisitions shall bee returned, being offered vnto them, within one month next after the finding therof, shall receiue them. The one moitie of al which forfeitures to the king, and the other to the partie that will sue for the same, &c.

Paine of forfait.

Fees of office,

And they which hereafter shall bee in case to sue liuerie, whose landes and tenements excede not the yeerly value of v. li. may lawfully sue forth that generall liuerie by warrant from the said Courts, as is aforesaid, although none other inquisition be thereof had nor certified, paying neuertheles the fees aboue remembred.

Finally, euery person shall sue forth his patent for his liuerie, within three moneths next after the assignement of his bill, or else his bill

assigned

assigned to be void and of none effect.

Hereafter ensueth the fees accustomed of the general Liueries.

FIrst to the Clarks of the petty bagge, for the respect of homage & fealty, & writing & inrolling xiiii. s. ii d. To the Lord great Chamberlaine xl. s. To the Master of the Rolles iij. li. To the clarkes of the liueries for writing of & Indentures & Obligations xx. s. beside counsel. The fees of the special Liuerie accustomed to be paid, be these following, that is to say, for the Signet iij li. x. s. For the priuie seale xxx. s. For the great seale xliij. s. viij. d. To the clarks of the petie bagge. xl. s. To the Maister of the Liueries clarkes xl. s. For inrollment of the knowledge of the Indenture, xij. s. To the lord great Chamberlaine of England xl. s. For the writ of the allowance for the same liuerie x. s. vi. d.

And note ye, that sometime in especiall cases the fees be more, and sometime lesse, as the case and matter doth require.

Hetherto haue we briefly touched all kinds of knights seruice, & thinges incident to the same. Now will we with like briefenes declare the other kinds of seruices which commonly be comprised vnder the generall name of Socage. For all lands or tenements, either they be holden by knights seruice, or else by socage tenure, or at least by the nature of socage tenure, which in effect is all one Wherefore first we shall define what Socage is in the proper signification, which done, we shall peruse the other kindes of seruice which be of the nature of socage tenure.

Chap. 31.

What socage is.

SOcage is properly where the tenaunt is bound to come with his poke, that is, with his plowe to eare and sowe a parcell of the demeane landes of his Lord, which seruice in auncient time was very common, but now by the mutuall consent, both of the Lord and the tenant, it is conuerted for the most part into a yearely rent. Howbeit, the name of Socage abideth still. wherefore now, all that is not knights seruice, is called by the name of socage. So that if a man holdeth by fealtie onely, or by fealty and homage for all maner of seruice, it is but socage tenure, for homage alone maketh not knights seruice. Also if a man holdeth by escuage certaine, as I haue said heretofore, hee holdeth in effect but by Socage.

Gardeine in socage.

Now where as a man holdeth his lands by Socage and dyeth, his heire being within the age of xiiij. yeares, the Lord shall not haue the ward, but the next of kinne to the heire, to whō the heritage cannot descend, shall haue the title and wardship, aswel of the land, as of the heire, till the heire come to the age of xiiij. yeares. And such tutor or gardeine is called gardeine in socage, and shall render accounts to the heire, of the issues and profites that he hath receiued of the lands during such time, deducting his reasonable costes and expences, so that he shal not haue the wardship to his owne vse and profit, as the Lord which is gardeine in chiualry hath.

And in case the gardeine in socage dyeth before hee hath made his accompt, the heire is without

without remedie, because no writ of account, lieth against the executors but for the king only.

Finally, yee shall understand, that when tenant in Socage dyeth, the Lord of whome the land is held shall haue relieke, that is to say, the value of the rent that is verely due vnto him of the tenancie, beside the yearely rent, so that in effect after the death of his tenant, he shall haue of the heire two rents, saue that for the relieke he may distraine forthwith, but for the accustomed rent he cannot distraine till the vsuall day of payment be come. Rent. Distresse.

Franke almoigne. Chap. 32.

TEnaunt in franke Almoigne, that is to say in free Almes, is where a Bishop, Deane, or any other Ecclesiastical person hold eth of his Lord in pure and perpetuall Almes, and such tenure began first in olde time after this manner. When a man was seised in auncient time of certaine lands and tenements in his demesne, as of fee, and of the same tenements infeoffed an Abbot and his Couent, or a Prior and his Couent, or any other person Ecclesiasticall, as a Deane of a Colledge, Maister of an Hospitall, or such like, to haue and to hold the same lands to them and to their successours for euer, in pure and perpetuall Almes, or in franke Almes, in these two cases the tenements should bee holden in franke Almoigne. The first foundation of franke almoigne.

By force of which tenure, they that hold in franke Almoigne after this sort, bee bound of

right before God, to make orisons & prayers, and to do other diuine seruices for the soules of their graunters & feoffors, and for the soules of their heires which be dead, and for the prosperous estate of them & their heirs, whilst they be alyue. And because of right they bee bound to this diuine seruice, they be discharged by the law to do any other prophane or corporall seruice, as fealtie, or such other like.

Tenant in franke almoigne shall doe no fealtie.

But neuertheless, if such as hold their tenements in franke almoigne, doe omit & leaue vndone these diuine seruices whereunto they bee bound before God, the Lorde cannot distraine them, ne yet compell thē by any other meanes by the course of the cōmon law, but the only remedy is to complaine of thē to their ordinary, who of right ought to compell such ecclesiastical persons to doe the diuine seruice due as aforesaid.

But here yee shall note, that if a Parson of a Church or any other Ecclesiasticall person, did before the statutes of dissolution of abbeis, monasteries &c. hold of the Lord by certaine diuine seruice to be done, as to sing masse euery fryday in the weeke, or Placebo & derige, or to finde a preest to sing masse, or to distribute in almes C. pence to a hundreth mē at such a day, in al these cases if such diuine seruice be vndone, the Lord may very well distraine, because the seruice is put here in certaine.

Tenant by diuine seruice.

Distresse for diuine seruice.

Now as I said before, that if in olde time a man did enfeoffe such ecclesiasticall person after such sort, he should hold his landes in franke almoigne. But at this day it is otherwise, for by the reasō of the estatute called, Quia emptores terrarum

tertarum, Westm. 3. cap. 1. No man can alien ne graunt lands or tenements in fee simple, to hold of himselfe, so that now if a man beeing seised of lands in fee simple, granteth the same by licence to an Ecclesiastical person in franke almoigne, these woords franke almoigne be voide, and the ecclesiastical person shall hold them immediatly of the Lord of the feoffor by the same seruices ẏ the feoffor held, so that no mā can hold in franke almoigne but by force of a grant made before ẏ said Statute, only the K. Maiesty excepted, for he is out of the compasse of the Statute.

Finally, ye shal note, that whereas a man holdeth in franke almoigne, his Lord is bound by the lawe to acquite him of all manner of seruice that any other Lord can haue or demaund out of the said lands, so that if he doth not acquite him, but suffer him to be distrained, then he shal haue against his Lord a certaine writ, called a writ of meine, and shal recouer against him his damages and costs of his suit. Writ of meine.

Of Burgage. Chap. 33.

A Tenure in Burgage, is where an anciēt Borough is, of which the king is Lord, & they which haue Tenements within the same borough, hold the same of the king, paying a certaine yearely rent, which tenure in effect is but socage tenure. Likewise it is, whereas any other Lord, Spirituall or Tempozall, is Lord of such Borough. Socage tenure.

Here ye shall note, that for the most part such auncient Boroughs and Towns haue diuers Customes and Vsages which other Townes Customes

haue not. For some boroughes haue a custome, that the youngest sonne shall inherite before the eldest, which custome is called commonly Borough English.

Dower by custome.

Also in some borough, by the custome, the woman shall haue for her dowrie all the lands and tenements whereof her husband was seised at any time during the matrimony and couerture.

Deuise by custome of Borough.

Moreouer, in some boroughs a man may bequeath or deuise his lands or tenements by testament at the time of his death, & by force of such deuise or legacy, he to whom the bequest is made after the death of the testator which made such testament, may by force of this auncient custome enter into the lands so to him bequeathed or deuised, without any liuery of seisin to him made, or further ceremony of law.

Howbeit, how & in what manner a man may at this day deuise his lands by his last will and testament, by force of a certain new Statute, it shall be hereafter declared.

Diuers other customes in England there be contrary to the course of the cõmon law, which if they be any thing probable, & may stand with reason, are good and effectuall, notwithstanding they be against the common law.

And note, that no custome is allowable, but such custome as hath beene vsed by title of prescription, or time out of mind.

Of Villenage, or bond seruice. Chap. 34.

A Tenant in Villenage, is properly, whom a Villaine, that is to say, a Bondman holdeth of his Lord, whose Bondman

he is, certaine landes or tenements, according to the custome of the manour, or otherwise at the will of his Lord, & to doe his Lord villaine seruice, as for to beare and carrie the dunge of his Lords, out of the Citie, or out of his Lords manour, and to lay it vpon the demeane lands of the Lord, or to doe such like seruice and villaines seruice. Howbeit, freemen in some places holde their tenements and landes of their Lords by custome, by such sort of seruice, and their tenure is called tenure in villenage, and yet they themselues be no villaines, ne of seruile condition, but free-men. For the land holden in villenage, maketh not the tenant a villaine, but contrariwise, a villaine may make free land to be villaine land vnto his Lord. As if a villaine purchaseth land in fee simple, or fee taile, the Lord of the villaine may enter into the land so purchased by the bondman, & put him and his heires out for euer, and this done, the Lord if he will, may lease the same land to his villaine, to hold of him in villenage.

And here ye shall vnderstand, that seruitude or villenage, is the ordinance not of the law of nature, but of the Law, which is called ius gentium, by which a man is made subiect contrary to nature, vnto another mans domination. For hee that is a villaine or bondman, either he is so by title of prescription, that is to say, hee and his auncestours haue beene villaines time out of minde, or else hee is a villaine by his own confession in some court of record, so that all villaines, either they bee borne villaines, or else they bee made so. They be

borne billaines, when their father being a bond man himselfe, begetteth them in lawfull wedlocke, either of a free woman, or of a bond woman, for so that the father be bond, the issue of him lawfully begotten must needes be bond by the Lawes of England, having no regard to the condition of the mother, whereas in the ciuil Law of the Romanes, it is cleane contrary for there, partus sequitur ventrē, that is to say, the seruitude or bondage of the mother maketh the childe bond, and not the bondage of the father.

Bastard. Howbeit, the bastard sonne of a bond man shall not be bond, and the reason is, because a bastard is Nullius filius in the lawe, that is to say, no mans sonne.

They bee made bondmen or billaines two waies, either by their owne proper act, as when a free person being of full age, will come into a Court of record, and there confesseth himself bond to another man.

Or else by the Lawes of Armes called Ius gentium, as when a man is taken prisoner in warres, and is compelled to serue and become the thrall and bondman of him that tooke him, the law calleth such a person a billaine, that is to say, a slaue and thrall.

Division of Villaines. And ye shall note, that billaines be properly called in latin Serui, because that when they be taken in warre, the Captaines be wont not to kill them, but to sel them, & so to saue their liues, so that they be called Serui a seruiendo that is to say, of serning. They be called Mancipia, a manu capiendo, because that they be taken by hand and power of their enemies.

Of

Nowe as I saide by the lawe of Nature, we are borne free, but after that by the law of Gentiles, seruitude or bondage did presse and inuade the worlde, then ensued the benefite of Manumission. Manumission is, quasi de manu emissio, that is to say, a giuing out of the hand or power: For so long as a man is in bondage and seruitude, he is subiect to the hand & power of an other, and when he is manumissed, he is made free, and deliuered from the said power, so that a Manumission is to say, a writing testifying that the Lord hath infranchised his villain, and all his offspring and sequell. Manumission.

Also if the Lord maketh to his bondman an Obligation of a certaine summe of money, or graunteth to him by his deede an annuitie or yeerely pension, or leaseth to him by deed landes or tenements for terme of yeares, any of these acts do implie an infranchisment. What actes maketh Manumission in Law.

Likewise, if the Lord maketh a feoffement to his villaine, and maketh vnto him liuerie of seisin, this also is an infranchisement and secret Manumission. Briefly to speake, whersoeuer the Lord compelleth his villaine by the course of the Lawe to doe that thing, that hee might otherwise inforce him to do, or to suffer, without the authoritie and compulsion of the lawe, he doth by implicatiõ infranchise his villaine, as if the Lord will bring against his villaine an action of debt, an action of account, of Couenant, or of Trespas, these and such like be in the eye of the Law infranchisements & Manumissions, because that the Lorde in all these cases may haue the effect & purpose of his suite, that Causes of infranchisement.

that is to say, the goods cattels, and correction of his bondman, without the compulsion of that law, euen by his own proper power and authoritie which he hath vpon his villaine. But if the Lord doth sue his villaine by an appeale of felonie, the villaine being lawfully indicted of the same before, this is no tacite manumission or infranchisemẽt, for the Lord though he haue power to beate his villaine, and to spoile him of his goods, yet hee cannot by the Lawe of this Realme put him to death.

Yée shall also vnderstand, that if a mans bondman purchase landes, or acquire and get vnto him any other thing, the Lord may forthwith enter and seise the same into his owne handes. Wherefore if the Lord will bring against his villaine a Præcipe quod reddat, by which he demaundeth against his villaine any landes or tenements, this implieth an infranchisement, forasmuch as hee bindeth himselfe to the prescript and authoritie of the law, whereas he might vse his own authoritie by entring and seising the said landes.

Finally, yee shall marke, that some villaines be called villaines in grosse, and other some be called villaines regardant. In grosse bee they of which the Lorde is seuerally seised, and not by reason of any lordship or manor, but they be called regardant which doe belong to a manor of which the Lorde is seised and the saide villaines haue bin regardant, that is to say, expectant & attendant, time out of mind, to the Lord of the said manour, in doing vnto him such seruices as to a villaine appertaineth.

Of

Of auncient demeſne. Chap. 35.

THere is alſo a certaine kinde of tenure, which is called auncient demeſne, & thoſe tenants which holde by this ſeruice, bee freeholders, and by charter, and not by copie or court Roll, or by the Verge after the cuſtome of the Manor, at the will of the Lord. And theſe tenants be ſuch as hold of thoſe manors which were S. Edwards the king, or which were in the hands of K. William the Conquerour, and theſe manors be called the ancient demeſnes of the king, or the ancient demeſnes of the crowne of England. And to ſuch tenants which hold of ſuch manors, be many & diuers liberties giuen and graunted by the lawe, as to be quite of toll and paſſage, and ſuch like impoſitions, which be demaunded of men for their goods and cattels, ſold or bought in faires & markets by them, alſo to bee quite and free of tare and tallage granted by Parliament, except that the kings Maieſty doe tare auncient demeſne, as to him onely appertaineth, when he thinketh good, for great & vrgent conſiderations. Tenants alſo of auncient demeſne, ought to be quite of payments to the expences and charges of the knights which come to the Parliament, alſo they ought not to bee impanelled nor put in Iuries & Enqueſts in the country, out of their manors or ſeignorie of auncient demeſne, for the lands which they hold of ſuch manor, vnles they haue other lands at the common law, for which they ought to be charged. And if ſuch tenants, or any of them which

which hold of the Manor of auncient demesne be destrained to do vnto their Lord other seruices or customes then they or their auncestors haue vsed to doe, then may they sue a certaine writ called a Monstraverunt, directed to the Lord, commaunding him that he distraine them not for to do other seruice & customes then they haue bin accustomed to do.

Writ of Monstraverunt.

And for further knowledge hereof, ye shal vnderstand, that in the Exchequer ther is a booke called Domesday, which booke was made in the time of the said S. Edward. And all the lands that were in the lesin, & in the hands of the said S. Edward at the time of the making of the said booke be auncient demeane.

But the lands which then were in other mēs handes, though they be written in the said booke, be franke fee, and no auncient demesne.

Franke fee.

Finally, it is to be noted, that tenants of ancient demesne shall not be impleaded for their said lands out of the manor whereof they so hold, and if they be, they may shew the matter & abate the writ. But if they once answere to the writ and iudgement giuen, then the lands haue lost the nature & benefit of ancient demesne, and are become franke fee, that is to say, pleadable at the Common Law for euermore. And thus haue we spoken of the diuersitie of tenures.

Abatement of a Writ.

Of Rents. Chap. 36.

FOrasmuch as vpon euery tenure there is commonly reserued one rent or other, therefore I thinke it good somewhat to treate of Rents. But yee must vnderstand, that there be sundry

sundry sorts of rents. There is one kind of rent which is called Rent seruice. Another which is called Charge, and the third which is named in Frēch, Rent secke, that is to say in latine, Reditus siccus, a drie rent. Now rent seruice is so called, because it is knit to the tenure, and is as it were a seruice wherby a mā holdeth his lāds or tenemēts, or at the least way when the rents be vnseuerably coupled & knit with the seruice, as for an example, where the tenant holdeth his land of the king, or of any other lord by fealty & by certaine rent, or by homage, fealty, & by certaine rent, or by any other sorts of seruices & by certain rent, this rent is called rēt seruice. And here ye shal note, that if this rent seruice be at any time when it ought to be paide, behind and vnpaid, the Lord of whom the land or tenement is so holden, whether it be in fee simple, fee taile, for terme of life, for yeares, or at will, may of common right enter and distraine for the rent, though there be no mention at all, ne cause of distresse put in the deede or lease. I said before that the nature of this rent seruice is to be coupled and knit to the tenure. For where no tenure is, there can be no rent seruice. And therefore if at this day I bee seised of landes of fee simple, and make a deede of feoffement of the same to another in fee simple, reserving by the same deede a rent, this can be called no rent seruice, because there can bee now no tenure betweene the feoffour and the feoffee. Otherwise it is of feoffements in fee simple made before the Statute of Westminster the third, cap. 1 called Quia emptores terrarum. For before the making

Deuision of rent seruice

Distresse of cōmon right.

making of that statute, if a mā had made a feoffment in fee simple, reseruing to him a certaine rent, yea though it had bene without deede, here had bin begun & created a new tenure betweene the feoffor and the feoffee, and the feoffee should haue holden of the feoffor, who by vertue of the same might of cōmon right haue distrained for such rēt. But at this day by force of the said act, there can bee no such holding or tenure created or begun, & consequently, no rent seruice can be at this day reserued vpon any gift in fee simple, except it be in the kings case, who being chiefe Lord of all, euer might and may, giue landes to be holdē of him. Thus ye see, that at this day, no subiect can reserue any rēt seruice vnto him, vnles the reuersion of the lands or tenements that he shal grant, be still to him, as where he granteth them in fee taile, or maketh but a Lease for terme of life, or for certaine yeres, or else at will.

For in all these cases the reuersion of the fee simple remaineth still in him, and therefore if here be any rent reserued, it is to be called a rent seruice, and is of common right distrainable, though there be no clause of distresse in the deed of feoffement or lease.

But here ye will aske me, when in the case before remembred, a man at this day giueth clean away the land or tenement from himselfe in fee simple, so that there is no maner of reuersion of the same remaining in him at al, & yet neuertheles reserueth vnto him by his deede a certaine rent, what maner of rent shall this be called: I answere, if there be in the deede indented any clause of distresse, that is, that if the rent bee behinde

hinde vnpaied, it shall be lawful for the feoffour to enter, & to distraine, it is called a rent charge, for as much as the land is charged therewith, but how of common right no, but only by vertue and force of the writing. But on the other side, if there be no such clause of distresse put in the Indenture, then the rent so reserued shal be called a rent secke. Charge.

Likewise, if a man that is seised of certaine lands, will graunt eyther by Indenture, or by deede Poll, that is to say, single and not indented, a yearely rent out of the same landes to another, whether it bee in fee simple, fee taile, for terme of life, for yeares, or at will, with clause of distres, then this rent is called a rent charge, & he to whom such rent is graunted, may for default of payment thereof enter & distraine. But contrary, if the graunt bee made without any such clause of distresse, it is called a rent secke, that is to say, a drie rent, because he cānot come to it, in case it be denied by way of distres, in so much that if he were neuer seised of it, he is by the course of the common law without remedy. Otherwise it is of a rent charge, for here, he to whom the graunt is made when the rent is behind, may chuse whether hee will sue a writ of Annuitie against the grantor, or distraine for ỹ rent behind, & retaine the distres, til the time he be paied accordingly. But he cannot haue both remedies together, but must take him to ỹ one, for if he once recouer by a writ of Annuity, then is the lād discharged. And if he sue not his writ of Annuitie, but distraine for ỹ arrerages, and the tenant sueth a repleuin, wherupon the other Annuitie.

auoweth

Eſtoppel. auoweth the taking of the diſtres in court of record, then is the land charged, & the perſō of the graun' or diſcharged of the action of annuitie.

Pœ ſhall alſo vnderſtand, that if a man will that an other ſhall haue a rent charge comming out of his land, and yet wil not that his perſon ſhal be by any meanes charged by writ of annuitie, he may then haue ſuch clauſe in the ende of his deed. Prouiſo quod præſens ſcriptum, nec quicquā in eo contentū vllo pacto ſe extendat ad onerandum perſonam meam, per breue ſeu actionē de annuitate, ſed tantummodo valeat ad onerandū terras, fundos, & tenementa mea, de annuo redditu prædicto. If this or ſuch like clauſe be added, then the land is charged, & the perſon of the grantour is diſcharged.

Pꝛouiſo.

Alſo if a man will make a deede of graunt in this wiſe, that if Iohn at Stile be not yearely paied at the feaſt of Chriſtmas for terme of his life xx. ſhillings ſterling, that then it ſhall be lawfull for the ſaide Iohn at Stile, to diſtraine for it in the manor of Dale, this is a good rent charge, becauſe the manor is charged with the rent by way of diſtres, & yet neuertheles in this caſe the perſon of him that made ſuch deede is diſcharged of an action of annuitie, forasmuch as he graunted not by his deede any annuitie to the ſaid Iohn at Stile, but onely graunted that he might diſtraine for yearely rent.

Furthermore, ye ſhal note, that if a man hath a rent charge to him and to his heires comming out of certaine landes, and doth purchaſe any parcell of theſe landes, to him and to his heires, in this caſe the whole rent charge is

quenched and gone, and the annuitie also, the cause is this, that a rent charge cannot bee in such case apportioned. Otherwise it is of a rent service, as for example, if one which hath a rent service of xx.d. by yeare, doth purchase parcell of the land, out of which this yearely rent of xx.d. is comming, this shall not extinguish or quench the whole rent, but for the parcell one-d. For rent service in such a case may very well be apportioned and rated according to the bar-ne of the land. Yet there be some sorts of rents services, which in no wise can be apportioned. As where a tenant holdeth his land of his Lord by the service, to render to the Lord yearely at such a feast, an hoole lading of gold, a red rose, a gylliuer, or such like, if in this case the Lord doth purchase parcell of the land thus of him holden, this service is gone, because such service cannot be severed and apportioned. Also Es-nage is a service that may be very well appor-tioned, according to the difference and rate of the land.

Extinguish-ment.

Rent ser-uice cannot be appor-cioned.

But when any land is holden by homage and fealtie, if the Lord purchase parcell of the land, yet he shall have his homage and fealtie still of his tenant.

We shall marke also, that if a man maketh a lease of lands to another for terme of life, reser-ving to him certain rent, if in this case he grau-eth that rent to John at Stile, saving to him-selfe the reuersion of the said land, this rent is but rent secke, because John at Stile that hath the rent, hath nothing in reuersion of the land.

But if he grauteth the reuersion of the land

to John at Noke for terme of life, and the tenant attorneth accordingly, then hath John at Noke the rent as rent seruice, because hee hath the reuersion for terme of his life.

Rent is incident to a reuersion.

Likewise it is, if a man giueth lands or tenements in taile, reserving to him & to his heires certaine rent, or maketh a lease of the land for terme of life, reserving certaine rent, if he granteth the reuersion to an other, and the tenant attorneth accordingly, the whole rent and seruice shall passe by this word Reuersion, because the rent and seruice in such case bee incident to the reuersion, and doe passe by the graunt of the reuersion. But if he had graunted the rent only, it had beene a rent secke.

What remedie a man hath to recouer his Rent when it is behind. Chap. 37.

I Shewed you before, that for a rent seruice if it be behind, yee may distraine in the ground, euen of common right, though there bee no such clause of distresse mentioned in the deede of feoffement, graunt, or lease.

Also for a rent charge ye may distrain, or bring your writ of annuitie, at your choise and election, as before is declared. But of a rent secke if yee were neuer seised of it, nor of any parcell thereof, yee be without remedy by course of the common Lawe, for ye cannot distraine for it nor yet bring your writ of annuitie, but if ye were once seised of it, or of parcell thereof, & it be arrerages behind, then your remedy shal be this, yee must goe either by your seife, or by your be-

gun

putie to the land or tenement out of which the rent is comming, and there demaund the arrerages of the rent, which if the tenaunt deme to pane, this deniall is disseisin of the rent. Also if the tenant be not then readie to pay it, this coniteruaileth a deniall, which is a disseisin. Disseisin of rent secke.

Moreouer, if neyther the tenaunt nor no other man be remaining vpon the ground to pay the rent when yee demaund the arrerages, this also is a deniall in the lawe, and is in very deed a disseisin. And for these disseisins ye may haue an assise of Nouel disseisin against the tenaunt, and shall recouer seisin of the rent, and the arrerages and your dammages and costes of your writ, and of your plea. Assise.

And if after such recouerie and execution had, the rent bee againe at an other time denied you, then yee may haue a writ of Redisseisin, and shal recouer your double damages, &c. In redisseisin double damages.

It shalbe therfore wisedome for a man when a rent is graunted by any person vnto him, to take the tenaunt of the lande a peme or an halfe penie in name of seisin of the rent, and then if at the next day of payment the rent be denied him, he may haue an assise of Nouel disseisin. And ye shall note, that there be three causes of disseisin of rēt seruice, that is to wit, rescous, repleuin, and inclosure. Three causes of disseisin of rent seruice.

Rescous is, when the Lord vpon the lande holden of him distreineth for his rent behinde, and the distresse bee rescued from him, or if the Lord come vpon the lande to distraine, and the tenaunt or any other man for him will not suffer him, that is called Rescous.

Repleuin.

Repleuin is, when the Lord hath distrained and repleuin is made of the distresse by writ, or by plaint.

Enclosure.

Enclosure is, where landes or tenements be so inclosed, that the Lord cānot come within the lands or tenements for to distraine. And the chiefe cause why such thinges so made be disseisin to the Lord, is forasmuch as ꝑ Lord is by this way disturbed of the meane & remedy whereby hee ought to come and haue his rent, that is to wit, by distresse.

Foure causes of disseisin of rent charge.

And there be foure cases of disseisin of rent charge, that is to wit, rescous, repleuin, enclosure, & denier. For denier, or denial, is as wel a disseisin of a rēt charge, as it is of rēt secke. Finally, ye shall vnderstand, that there be 2. causes of disseisin of rēt secke, that is, denial & inclosure.

And two of rent secke.

And it seemeth that there is yet another cause of disseisin of al the three rents aforesaid, that is to wit, this, whē the Lord commeth to the land holden of him, or when hee that hath a rent charge, or a rent secke, commeth to the land to distraine for the rent behind, or to demand ꝑ rent, and the tenant hearing this, incountreth him, & forestalleth him the way with force and armes, and manaceth him in such sort, as hee dare not come to the ground for to distraine for his rent behind for feare of death or mutilation of his members: This is a disseisin, because the partie is disturbed of his meane, and lawfull remedie whereby he ought to come to his rent.

Finally, ye shall obserue and marke, that by an act of Parliament made in the xxii. yeare of our Soueraigne Lord K. Henrie the eight, it is lawfull for the executours and administratours

tours of tenants in fee simple, tenants in fee taile, tenants for terme of life, of rent services, rent charge, rent seckes, and of fee farmes, for arrerages of such rents as were due vnto their testators in their lines, either to distrain for the same, or at their election to bring an action of Debt, except in such Lordships in Wales, or in the Marches therof, whereas the tenants haue vsed time out of minde to pay vnto euery Lord at his first entrie into the Lordship any summe of mony, for the redemption of all maner of outcries and penalties incurred at any time before the Lords entrie. Distresse, or action of debt.

Also by force of the said act, the husbād which was seised in the right of his wife, may after the death of his wife eyther distraine, or bring an action of debt for the arerages of such rents as were due and vnpaied in her life.

Likewise it is of him that hath a rēt for terme of another mās life, if he for terme of whose life he hath the rent, dieth, yet by vertue of the said Act, he or his executors & administrators, may eyther distraine or bring an action of Debt for the arrerages due before the death of him, for terme of whose life he had the rent.

How auowries ought to be made of Rents and Services, enacted An. 21. H. 8. Chap. 38.

WHere any lands be holden of any person by rents, customes, or services, if the Lorde distraine vpon the same lands for any such rents, customes, or services, and Repleuin thereof bee sued, the Lord may

auowe, or his baylife or seruant may make conisáce, or iustifie the taking vpon the same landes, as within his fee and seignorie, alledging in the said auowrie, conisance or iustification, the same landes to be holden of him without naming any person certaine to be tenant of the same, & without making any auowrie, iustification, or conisance vpon any person certaine. And likewise vpon euery writ sued of the second deliuerance. And they that make any such auowrie, iustification, or conisance, if the same auowry, conisance, or iustification be found for them, or the plaintife be non suite, or otherwise barred, then they shall recouer their whole damages and costes.

Also the said plantifes and defendants shall haue like plees, and one aide prier (plees of disclaimer only except) as they might haue had before the making of this act.

Plees in auowrie.

Also such persons as by the cõmon law may ioyne to the plaintife or defendant in the saide writs of Replegiare or second deliuerance, as well without Processe as by Processe, shall from henceforth also in this case ioine vnto them, as well without processe as by processe, and haue like plees & like aduantages in all things (disclaimer only except) as they might haue by the common law before this act.

An act for the assurance of farmours, made An. 32. H. 8. Chap. 39.

ALl Leases hereafter to bee made of any landes, or other hereditaments, by writing indented vnder seale, for terme of yeares, or for terme of life, by any persõs being of

of the age of xxi. yeares, hauing any estate of inheritance, either in fee simple, or in fee tayle, in their owne right, or in the right of their churches, or wiues, or iointly with their wiues, shal be good and effectuall against the lessours, their wiues, heires, and successors, according to the estate comprised in such Indenture of lease.

Prouided that this act shall neither extende to any leases to be made of any landes, or hereditamēts, being in the handes of any farmours, by vertue of any old lease, vnlesse the same olde leas be expired, surrendred, or ended, within one yere after the making of the new lease, nor yet to any graunt to be made of the reuersion of any lands or hederitaments, nor to any lease of such lands or hereditaments, as haue not commonly beene letten to farme by the space of xx. yeares next before such lease therof made, nor to any leale to be made without empeachment of wast, nor to any leale to be made aboue the nūber of xxi. yeres, or thre lines at the most, from the day of the making therof. And p vpon such lease be reserued yearely during the same, due & paiable to the lessors, their heirs & successors, to whom the land should haue come after the death of the successors, & to whom the reuersiō therof shall pertaine, according to their estates & interestes, so much yerely rent or more, as hath been accustomably yelded for p same, within xx yers next before such leases, and that he to whom the reuersion therof shal appertaine, after the death of such lessors, or their heires, shall haue such like remedy & aduātage against their farmours therof, their executors and assignes, as the

lesse or hindelie should haue had.

The wife shal be party to the leasse.

Prouided also, that the wife be made party to euery such lease as shal be made by her husband of any lands being the inheritance of the wife, & that euery such lease bee made by Indenture in the name of the husband & his wife, and she to seale thereunto. And that the rent be reserued to the husband & wife, & to the heirs of the wife, according to her state of Inheritance therein. And that the husband shall in no wise alien, discharge, grant, or giue away the same rent reserued, nor any part therof, longer then during the couerture, without it be by fine leuied by the saide husband and wife.

Prouided furthermore, that this act extend not to giue libertie or power to any persons to take any moe farmes, leases, or taking of any lands, or other hereditaments, then they might haue done before the making of this act: nor yet extend to giue any liberty to any Parson or Vicar of any Church or vicarage, for to make any lease or grant of any of their messuages, lands, tenements, tythes, profits, or hereditamēts, belonging to their Churches or vicarages, otherwise then they might haue done before the making hereof, Anno 32. H. 8.

What grant by a Corporation is good.

It is furthermore enacted, that the graunt, leasse, or gift, or election of the gouernour or ruler of any hospitall, colledge, deanery, or other Corporation, with the assent of the more part of such of the same as haue voice thereunto, shall be good and effectuall, any rule or statute made by any founder to the contrary notwithstanding.

Of falſifying of recoueries by Farmours, enacted Anno. 21. H. 8. Chap. 40.

ALL Farmours or Leſſées for terme of yeres may falſifie for their terme only recoueries had by fained titles, as well as tenant in frée hold. And the ſame farmours, their executors & aſſignes, ſhall enoy their ſaid termes, according to their leaſes, againſt ſuch recoueries, euen as if none ſuch had béen ſuffered. In which caſe, neuertheleſſe the recouerer, after ſuch recouery had, ſhall haue like remedie againſt the farmours, by auowry, or action of debt, for rẽts and ſeruices reſerued vpon the ſame leaſes, being due afore the ſame recoueries, and like actions for waſt done after the ſame recoueries, as the leſſour might haue had, if no ſuch recouerie had béene had. Furthermore, no Statute ſtaple, ſtatute Marchãt, nor execution by Elegit, ſhal be auoyded by any ſuch fained recouerie, but like remedie ſhall be had to auoide and falſifie the ſaid recouerie, as is ordained for the farmour or leſſée for terme of yeares. Auowry or action of debt.

Of Tythes, and how they ſhall be recouered, enacted Anno 32. H. 8. Chap. 41.

ALl perſons ſhall truly pay their Tithes, and Offerings, according to the lawfull cuſtomes and vſages of Pariſhes and places where ſuch Tythes or duties dee due. And if they doe wilfully withold any parcel of them, the partie, whether he be eccleſiaſticall, or lay,

law, that should haue them, may conuent such persons before the Ordinarie, his Commissary, or other competent Minister or Iudge of the place where such wrong shall bee done, according to the ecclesiastical Lawes. And in euery such case or suite, the same Ordinary or Iudge hauing the parties, or their procurator before him, shall proceede to the determination thereof ordinarily or summarily, according to the course of the said Lawes, and thereupon shal giue sentence according.

And in case any of the parties of any matter concerning that suit doe appeale from the sentence or diffinitiue iudgement of the said Iudge, then the same Iudge forthwith vpon appellation made, shall adiudge to the other partie the reasonable costes of his suite, and shall compell the same partie appellant, to pay the same by compulsary processe & censure of the said lawes, taking suertie of the other partie to whom such costes shall be adiudged, to restore the same to the appellant, if afterward the principall cause of that suite of appeal shall be adiudged against him. And so euery Iudge ecclesiasticall, shall iudge costes to the other partie vpon euery appeale to bee made in any suite or cause of subtraction or detention of any tythes or offring, or in any other suite to be made concerning duties of such tythes or offrings.

And if any persons after such sentence giuen against them, shall obstinately refuse to pay their tythes or duties, or such summes of mony so adiudged wherein they be condemned, then two Iustices of the peace of the same Shire whereof

whereof one to bee of the Quorum, shall vpon certificat or complaint to them made in writing by the Iudge that gaue the sentence, cause them to be attached and committed to the next Iaile, there to remaine without baile or mainprize, til they shall haue found sufficient sureties to bee bound by recognisance or otherwise before the same Iustices to the Kinges vse for the performance of the said iudgement.

Prouided, that no person shall be sued or otherwise compelled to pay any tithes for any landes, tenements, or hereditaments, which by the lawes of this realme are discharged, or not chargeable with the paiment of any such tithes.

Also this act shall in no wise bind the inhabitants of London, and Suburbs of the same, to pay their tythes & offerings within the same Citie and Suburbs, otherwise then they should haue done before.

Furthermore, if any hauing an inheritance, freehold, terme or interest, in any parsonage, vicarage, portion, pencion, tythes, oblations, or other Ecclesiasticall profit, made or to bee made temporall, or admitted to be in temporall handes by the lawes or statutes of this realme, be disseised or otherwise put from the same, or any other person claiming to haue interest therin, the person so disseised or wrongfully put from his said right or possession, his heire, wife, and other to whom such wrong shal be done, may haue remedie in the Kings temporall Courts, as the case shal require for the recouery therof, by writs original of præcipe qd' reddat, assise or nouel disseisin, Mordãcester, Quod ei deforceat, writs

of

of dower, or other writs originall to be graunted in the chancery, of euery such parsonage, vicarage, portion, pension, or other profit ecclesiastical, according to the nature of the suit therof. And writs of couenant & other writs for fines to be leuied, & all other assurances to be made of any such parsonage or profits ecclesiastical, shal be deuised & granted there, like as hath bin vsed for fines to be leuied, and assurance to be had of lands or other hereditaments, & all iudgements giuen vpon such writs originall granted for any the premisses, and al fines leuied & knowledged in any of the kings said courts therof, shall be of like force as iudgement giuen, and fines leuied of lands, tenements, and hereditaments.

Of Mortuaries, enacted An. 21. H. 8. Chap. 42.

NO person spirituall, their farmors or bayliffes, shal cal any person before any iudge Spirituall, for the recouery of any Mortuaries, more then is hereafter mentioned, vpon paine to forfeit for euery time, so much in value as they shal take aboue the summe here limited, and ouer that xl. s. to the partie grieued, for which he shal haue an action of debt by writ, bil, or informatiõ, wherin no wager of law, essoine, nor protection, shall be allowed.

First no mortuary shalbe taken of any which at his death hath in moueable goods vnder the value of ten markes. Also no mortuarie shall be taken but onely where mortuaries haue beene vsed to be paid, and there after the forme hereafter mentioned. Nor in no mo places but one, that

that is to wit, there where his most abiding is: and there but one. Nor no person shal take for the Mortuary of any person being at his death, of the value of ten marks above his debts paid, and vnder xxx. li. above iij. s. iiij. d. And of the value of xxx. li. and vnder xl. not above vi. s. viii. d. And of the value of ix. li. or above, of any summe whatsoeuer it be, not above x. s.

Also no mortuarie shall be asked nor paid for any woman couert baron, or child, or any person not keeping house, or for any wayfaring man, but the mortuaries of such waifaring me be answerable in that place wher they had their most dwelling at the time of their death.

Neuertheles such spiritual person may take any thing, which shal be disposed or bequeathed to him, or to the high aultar of the Church.

Also nothing shalbe taken for Mortuary in Wales, nor in the Marches of the same, nor in Calis or Barwick, or the Marches of ꝑ same, but only in such places of the same, wher Mortuaries haue bin accustomed to be paid, & there but only after the forme aboue specified. Prouided that the Bishops of Bangor, Landafe, S. Dauids, & S. Asse, & the Archdeacon of Chester, may take such Mortuaries of the Priests within their dioces & iurisdictions, as heretofore haue bin accustomed. Prouided also, that in such places wher mortuaries haue bin accustomed to be taken of lesse value, none shalbe compelled to pay any other mortuary, or more for any mortuary, then hath bin accustomed, nor no mortuary there shalbe demanded of any person exempt by this act vpon paine afore limitted.

Of

Chap. 43.

IT is called a discontinuance by the lawes of England, where he that hath the possession of lands or tenements for the time present, and yet not hauing the fee simple in himselfe, nor in his owne right onely maketh an alienation of the same to another, by reason whereof he that should haue them after him, and which then hath right vnto them, cannot enter, but is driuen to his remedie by way of action, in such wise that the said landes bee not vtterly shitted and gone from such person or persons as haue right vnto them, but be all onely discontinued for a time, till the person which after the death of such discontinuer hath right vnto them, doe continue and bring them home againe, not by entrie, but by suite and way of action. As for example, a tenaunt in tayle, of certaine landes doth enfeoffe an other in the same, in fee simple or fee tayle, and hath issue and dieth, his issue cannot enter into the lands though he hath title and right vnto them, but is put to his action, which is called a Formedon in the descender.

Formedon in the discender.

And if such tenant in tayle which maketh such a feoffement, hath no issue at time of his death, it is yet neuertheless a discontinuance to him, which is either in the reuersion or in the remainder, so that neither the one nor the other can enter, but be driuen to their action, he in the reuersion to his Formedon in the reuerter, and he in the remainder to his Formedon in the remainder.

Formedon in the reuerter or remainder.

In like maner if a Bishop doth alien landes which be parcell of his Bishoppricke and dieth, this

this is a diſcontinuance of his ſucceſſor, forasmuch as hee cannot enter, but is driuen to his writ of Entre ſine aſſenſu Capituli.

Entre ſine aſſenſu Capituli.

Semblable, if a Deane be ſole ſeiſed of lands in the right of his Deanry, and maketh ſuch an alienation, this is a diſcontinuance to his ſucceſſour. Alſo if the Maiſter of an hoſpitall alieneth any lands of his hoſpitall, that is a diſcontinuance, & his ſucceſſor cánot enter, but is put to his writ, De ingreſſu ſine aſſenſu contratrum & ſororum.

Ingreſſu ſine aſſenſu contrᷓ trū, & ſororum.

But if a Parſon, or a Vicar of a Church, will alien any of his glebe landes to an other in fee ſimple, or fee taile, and dieth, or reſigneth his benefice, this is no diſcontinuance to his ſucceſſour, but he may very well enter, notwithſtanding ſuch alienation made by his predeceſſour. And the higheſt writ that a Parſon can haue, if his predeceſſour hath aliened his glebe land, or loſt it by default, or reddition, is a Iuris verum. And furthermore note, that no tenant of ꝑ land can by his or their act, diſcõtinue ꝑ right of him in the reuerſion, vnleſſe it be by froffement with liuery & ſeiſin, or elſe by a releaſe with warrãty. And note, that ſuch things as paſſe by way of graunt by deede without liuerie and ſeiſin, cannot be diſcontinued, as an aduowſon, cõmon, or a villaine in groſſe, reuerſion, rent, charge, common for beaſts certaine, and ſuch other like.

Alſo yee ſhall vnderſtand, that in the xxxii. yeare of king Henry the 8. it was enacted, that no fine, feoffemẽt, or other act to be made or ſuffered by the huſband onely, of any landes or tenements, being the inheritance or freehold of his

his wife, during the coverture betweene them, should be any discontinuance thereof, or be prejudiciall or hurtfull to the saide wife, or to her heires, or to such as should haue right, title, or interest to the same by ye death of such wife, but that the same wife, and her heires, and such other to whom such right should appertain after her decease, may then lawfully enter into al such lands and tenements, according to their rights and titles therein.

How recoueries by collusion against tenants for terme of life, is no discontinuance, enacted An. 32. H. 8. Chap. 44.

WHere diuers persons seised of lands and hereditaments, as tenants by the curtesie of England, or otherwise only for terme of life or liues, haue heretofore suffered other persons by agreement or comune betweene them had, to recouer the same against them in the kings court, by reason whereof, they to whome the reuersion or remainder thereof hath belonged, haue after the deaths of such tenants ben driuen to their actions for the recontinuance and obtaining of the said landes and tenemẽts so recouered, and sometime haue ben clearely disherited of the same: It is enacted, that all such recoueries hereafter to be had by agreement of the party, or by coune, or against any such particular tenant of lãds or hereditaments, whereof he is, or hereafter shal be seised, as tenant by the curtesie of England, tenant in tayle after possibilitie of issue extinct,

or

or otherwise for terme of life, shall from hence-forth as against such persons to whome the reuersion or remainder shall then appertaine, and against thier heires and successours be clearely void. Prouided that this act extend not, to any person that shall by good title recouer any hereditamēts without fraud or couine, against any such particular tenant, by reason of any former right or title, nor yet to auoide any recouery to be had against any such particular tenāt, by the assent & agreement of those in the reuersion or remainder, so that such assent and agreement do appeare of record in the kings Court.

How wrongfull disseisin is no discent in the law, enacted Anno 32. H. 8.

Chap. 45.

WHere diuers persōs haue by strength & without title, entered into landes & tenements, & wrongfully disseised and dispossessed the rightfull owners & possessours therof, & so being seised by disseisin, haue thereof died seised, by reason of which dying seised, the parties that were so disseised & dispossessed, or such other persons as before such discent might haue lawfully entred into the saide landes & tenements, be thereby clearely excluded of their entrie into the land, and put to their action for their remedy and recouerie thereof: It is enacted, that the dying seised hereafter of any such disseisour, hauing no right or title therein, shall not be deemed any such discent in the law, as to take away the entrie of such persōs or the heires, which at the time of the said discent had

good title of entrie into the ſame. Except that ſuch diſſeiſor hath had the peaceable poſſeſſiō of his lands or tenements wherof he ſhall ſo die ſeiſed, by ỹ ſpace of fiue yeres next after the diſſeiſin by him committed, without entrie or continuall claime, by ſuch as haue lawfull title thereunto.

The limitation of Preſcription enacted An. 32. H. 8. Chap. 46.

NO perſon ſhall ſue or maintaine any writ of right, or make any title or claime to any lands, tenements, rents, annuities, cōmons, pencions portions, corrodies, or other hereditaments, of the poſſeſſion of his auncеſtours or predeceſſours, & declare any further ſeiſin or poſſeſſiō of his auncеſtour or predeceſſour, but onely of the ſeiſin or poſſeſſion of his auncеſtour or predeceſſour, which haue bin ſeiſed of the ſame within ſixtie yeares, next before the teſte of the ſame writ, or next before the ſaid title or claime ſo to be ſued.

Limitation of 60. yeres

Alſo, none ſhall ſue or maintaine any Aſſiſe of Mordaūceſtour, coſinage, ayle, writ of Entry vpon diſſeiſin, done to any of his auncеſtors or predeceſſors, or any other actiō poſſeſſary vpon the poſſeſſiō of any of his auncеſtors or predeceſſors, for lands or hereditamēts of further ſeiſin or poſſeſſion of them, but only his ſeiſin or poſſeſſion which was ſeiſed thereof within 50. yeres next before the teſte of the originall of the ſame writ. And none ſhall maintain action for lands or other hederitamēts vpon his own ſeiſin or poſſeſſion therein, aboue 30. yeares next before the teſte of the originall of the ſame writ.

Limitation of 50. yeres

Limitation of 30. yeres

Item,

Item, none shall make any auowzie or conisance for a rent, suit, or seruice, & alledge any seisin of the same in his auowzie or conisaunce in possession of his ancestors or predecessors, or in his own possession, or in the possession of any other, whose estate he shall claime to haue aboue 50. yeares next before the making of the said auowzie or conisance. Moreouer, al Formedons in reuerter, Formedons in remainder, & Scire facias vppon fines of landes or other hereditaments to be sued, shal be taken within 50. peres next after the title of actiõ fallen. And if any do sue any of the said actions or writs for lands or other hereditaments, or make any auowzie, conisance, prescriptiõ or claime for any rent, suit, seruice, or other hereditaments, and if he proue ẏ hee or his ancestors or predecessors were in actuall possession or seisin therein, at any time within the peres before limitted, if the same be trauersed or denied by the partie plaintife, demaundant or auowant, or by the partie tenant or defendant, he and his heirs shal from henceforth be vtterly barred for euer, of euery ẏ said writs, actiõs, auowzies, conisance, prescriptiõ title and claime hereafter to be sued or made for the same lãds or other the premisses, for which such action, writ, auowzie, conisaunce, title, or claime hereafter shall be sued or made. Auowrie. Barre.

Prouided, that all such persons which now haue any of the said actions, writs, auowzies, Scire facias, conisaunce, prescription, title, or claime depending, or that hereafter shall sue or bring any of the saide writs, or actions, or make any of the saide auowzies, conisances,

Whether eſtate ſhall take effect.

preſcription, titles, or claime, at any time before the feaſt of the aſcentiõ of our Lord, which ſhall be in the yeare of our Lord, 1546. ſhall alledge this ſeiſon of their auncеſtors, or predeceſſors, or their owne poſſeſſion & ſeiſon, & alſo haue all other like aduãtage in the ſame writs, actions, auowries, comiſances, preſcriptions & claimes, as they might haue had before the making of this ſtatute. Prouided alſo, that if any perſon be now within the age of xxi. yeares, or couert baron, or in priſon, or out of this Realme, now hauing cauſe to bring any of the ſaid writs, or actions, or to make any auowries, comiſaunces, preſcriptions, or claimes, it ſhall be lawfull to ſuch perſon, to ſue or bring any of the ſaid actions, or to make any of the ſaid auowries, comiſaunces, titles, or claimes, at any time within fiue yeares next after ſuch perſon now being within age, ſhall accõpliſh the age of xxi. yeres, or now being couert baron, ſhall be ſole, or now being in priſon, ſhall be at their libertie, or now being out of this Realme, ſhall come and bee within this Realme. And that euery ſuch perſon in their ſaid actions, auowries, comiſances, titles, or claimes, to be made, ſued, or cõmenced, within the ſaid fiue yeeres, ſhall alledge the ſeiſon of their auncеſtors or predeceſſors, or of their owne poſſeſſion, or of the poſſeſſiõ of thoſe whoſe eſtate they ſhall then claime. And alſo within the ſame fiue yeres ſhal haue like aduãtage in the ſame, as they might haue had before the making of this act.

Prouided alſo, that if the ſaide perſons now being within age, or couert baron, in priſon, or

out

out of this realme, do die within age, or being couert or in priſon, or out of this realme, do deceaſe within fyue yeares next after they ſhall accompliſh their full age, or ſhal be at large within this realme, or ſhal become ſole and no determination or iudgement had of ſuch title, actions, or rights ſo to thē accrewed, then the next heire of ſuch perſons ſhall enioy like aduantage, to ſue, demaund, auowe, declare, or make their ſaid tytles, claymes, or preſcriptions, within ſixe yeares next after the death of ſuch perſons, as the ſaid infant after his full age, or the ſaid woman couert after the death of her huſband, or the ſaid perſon being out of this Realme, after his repair or comming into the ſame, or the ſaid perſon impriſoned after his enlargement and comming out of priſon, might haue had within ſixe yeres then next enſuing, by force of the prouiſion laſt before rehearſed.

Prouided alſo, that if any perſons before the ſaid Feaſt of the Aſcention, ſue any of the ſaid actions, or make any auowrie, title, or clayme, and the ſame happen by the death of any the parties thereunto, to bee abated before iudgement or determination thereof had, then the ſaid perſons, being demaundants or auowants, or making any ſuch conuſance, preſcriptiō, title, or clayme, being thē aliue: and if not, then their next heires may commence their action, and make the auowrie, conuſance, or clayme vpon the ſame matter, within one yere next after ſuch ſuite abated, and ſhall haue like aduantage to ſue, demaund, auowe, declare, or make their ſayd titles, claimes, or preſcriptions, within the

faide one yeare, as the demaundants in such writ or suite abated, or as such as did auow or make comisance, tytle, clayme or prescription, might haue enioyed in the former action or suite.

Attaint vpon false verdict.

Prouided furthermore, that if any false verdict hereafter bee giuen in any of the said actions, suites, auowries, prescriptions, titles or claymes, then the partie grieued may haue his attaint vpon euery such verdict, and the plaintife in the same attaint vpon iudgement for him giuen shall haue like recouery, execution and other aduantage, as heretofore hath been vsed.

Of Fines. Chap. 47.

FInes haue their name, because they make a finall end and determination of all suites, strifes and debates betweene men. For the due leuying whereof, it was enacted in the fourth yeare of King Henrie the seuenth, that they must be solemnly before the Iustices of the common place, read and proclaimed the same Terme, and three Termes next following the ingrossement, at which time all the pleas must cease. And such Fines shall bee a sufficient barre and discharge against all persons sauing women that bee couert baron, if such women bee not priuie to the same Fine, or such as bee within age, in prison, out of the Realme, or out of their right mindes. But these Fines shall not conclude, ne barre all Strangers which haue right to enter or to haue action, if they come within fiue yeres after such Proclamations

ons made, or (in case the cause of action falleth vnto them, after the fine so duely leuied) if they come and commence their action & suit within fiue yeres next after such cause of action to them accrued. And they may sue against the takers of the profits. But if they that haue right thereto be within age, in prison, couert baron, or out of the realme, or not in the right memorie, then their title or entrie shall be saued vnto them till they be of full age, out of prison, discouert and sole, within the realme, or of right mind, and then within fiue yeres after, their action or entrie must be sued or made with effect.

Also by the said statute it shall be a good plea for al strangers, to say, that they that were parties to the fine, nor none other to their vse, had any thing in the tenemēts or lands at the time of the leuying of the fine.

Furthermore, in the xxiii. yeare of this king, for the auoyding of certaine doubts and ambiguities, it was enacted, that all fines, aswell heretofore leuied, as hereafter to be leuied, according to the saide statute of Henry the viii by any person of the full age of xxi. yeares, of any landes or other hederitaments, being before the fine liuied, in any wise tayled vnto him, or any of his auncestours, in possession, reuersion, remainder, or in vse, shall be immediatly after the same fine leuied, ingrossed, and proclamattō made, a sufficient barre and discharge for euer, aswell against him, and his heires, clayming the same only by force of any such entayle, as against all other to their vse, so that the same fines bee not leuied to any woman

after the death of her husband, contrarie to the statute made the xi. yeare of Henry the seuenth, of landes and tenements of the inheritance or purchase of her husband, or of any of his auncestors giuen to her in dower, for terme of life, or in taile, in vse, or in possession. Except also all fines leuied, or to be leuied, of any such landes or hereditaments by the owners therof, by any speciall act of Parliament made sith the saide fourth yere of Henrie the vij. be restrained from making any alienations, discontinuances, or other alienatiõs of the same. Also of such lands as be now in suite and variance in any of the kinges Courts, or whereof any euidences be now in demaund in the Chauncery, or which be already recouered. Except also fines leuied, or to be leuied by any person, of lãds or tenemẽts, graunted to him, or to his auncestours in taile, either by the kings letters patents, or by vertue of any act of Parliament, wherof the reuersion is in the king. And confirmed in the 34. yeare of king H. the 8.

Of Testaments or last Willes.

Chap. 48.

Diuision.

TEstamentum in Latine, is as much to say as mentis testatio, that is, a declaration or witnessing of a mans minde And there be two sortes of testaments. The one is called Testamentum scriptum, that is, a written Testament, or last Will by writting, and the other is called Testamentum nuncupatiuum, a testament nuncupatiue, which is when a man doth expresse by mouth his last will and

Written testament.

The testament nuncupatiue.

and testament without writing, by calling before him certaine of his neighbours, in whose presence he doth signifie by words his last mind and will. And this for the most part men vse to doe, when for feare of suddennesse of death, they dare not abide the writing of their will. And this will (vnlesse it be in certaine cases) is as strong and as sure, as is a Testament, or last will put in writing, and sealed with the seale of the testator.

Also though a Testament by writting be not sealed with the seale of the testator, yet is the testament good and effectuall in the law.

And ye shall also marke, that where a man maketh once his Testament and will, and afterward maketh an other will by words, if his last will be proued before the Ordinary, and by him put in writing, and vnsealed with his seale, such last will shal auoid the first will, vnlesse it be in special cases. And so alwaies the latter will and Testament shall auoid the former.

Finally, by an act made the xxi. yeare of King Henry the eight, it was ordained, that where part of the Executors named in the testament wherein any landes or tenements be willed to be solde by them, refuse to take vpon them the administration, and the residue doe take the charge and administration vpon them, in this case all bargaines and sales in the saide landes made onely by those executors that take the administration of the testament vpon them, should be as good and effectuall, as if all the residue of the executors so refusing had ioyned in the making of the bargaine and sale.

The

EExecutor is, when a mā maketh his testament and last will, and therein nameth the person which shal execute his Testament, then he that is so named, is his executor, & such an executor shall haue an action against euerie debtor of his testator. And if the Executors haue assets, that is to say, sufficient in their hāds, then shall euery one to whom the testator was in debt, haue action against the executor, if he haue an obligation or specialty to shew. But in euery case wher the testator might wage his law, there no action lyeth against the executor.

Assets in the hands of the executors.

Administrator is he, to whom the Ordinary committeth the administration and bestowing of the goods of a dead man, for default of an executor. And actions shall lie against him, and for him as for an executor, and he shall be charged to the value of the goods of the dead, and not further, if it be not by his false plea, or for that he hath wasted the goods of the dead. But if the Administrator die, his executors be not Administrators, but it behoueth the Ordinary to commit a newe administration. Howbeit if a stranger, I meane him that is neither executour named in the Testament and last will, nor yet administrator appointed by the Ordinarie, will take the goods of the dead and minister of his owne head and minde, without lawfull authoritie, this person shalbe charged and sued as an executor, and not as an administrator in an actiō which is brought against him by any creditor. But if the Ordinarie make a letter ad colligendum

Executor of his own wrong.

colligendum bona defuncti, he that hath such a letter is not administrator, but the action lieth in this case against the ordinarie, as well as if he toke the goods by his owne hand, or by the hand of any other his seruant, by any other cõmaundement.

An act of the probate of Testaments, made An. 21. H. 8. Chap. 50.

NOthing shall be taken by any hauing authoritie to take probation, insinuation, or approbation, of any Testament wher the goods of the Testator, doe not amount aboue the value of C. s. except to the scribe for writing thereof vi. d And for the Commission of administration of the goods of any dying intestate, not being likewise aboue C. s. vi d. Also none hauing power to take probate of Testaments, shall refuse to approue Testaments being lawfully offered vnto them in writing with wax thereto affixed readie to be sealed, so that they be lawfully proued before ỹ same ordinary to be true. And when the goods of the testator doe amount aboue an C. s and not exceede xl. li. none shall take for the probation, registring, sealing and writing of any such Testament, aboue iij. s. vi. d. whereof to bee to them that haue authoritie to take the probation, ij. s. vi d. and the other xij d. to the scribe for registring.

And where the goodes amount aboue xl. li. then only v. s. to be taken, wherof to be to them that haue authoritie to take the probation ij. s. and vi. d. and the other ij. s. vi, d. to the scribe for

for the regiſtring, or elſe if hee refuſe that it. s. vi. d. then he to haue for euery x. lines, euery line containing in length x inches a penny.

And they that haue authoritie as is abouesaid, ſhall approue, inſinuate, ſeale, and regiſter the teſtaments, & deliuer them, ſealed with the Seale of their Office, to the executors, for the ſumme abouesaid, & that with conuement ſpeed, without any fruſtratorie delay.

And if any perſon die inteſtate, or the executors refuſe to proue the teſtament, then they hauing authority as is abouesaid, ſhall graunt the adminiſtratiõ of the goods to the widdow of the perſon deceaſed, or to the next of kin, or to both, after their diſcretion, taking ſurety of them for the true adminiſtration of the goods and debts, which they ſhalbe ſo authoriſed to miniſter. And where one or diuers claime the adminiſtration, as next of kin, which bee egall in degree of kinred, or where any one perſon deſireth the adminiſtration as next of kin, where indeede diuers perſons bee in equalitie of kinred, then in any ſuch caſe the ordinary ſhall be at liberty, to take one or moe making requeſt, where diuers require the adminiſtration: or where but one or moe of them, & not all being in like degree, make requeſt, thẽ the ordinary ſhal admit the widow, and him or them only making requeſt, or any of them, taking nothing for the ſame, where the perſon deceaſed died not worth C. s. And if hee died worth C. s. & not aboue xl. li. then ii s. vi d. onely to be taken. And the executor or adminiſtrator calling to him the debtors, two at the leaſt, or ſuch perſons to whom any legacy was

made

made, and if they refuse, then two next of kinne to the person deceased, and in their default, two other honest persons shall by their discretions make a true inuentorie indented of al the goods, which persons sweating before the Bishop or his officers to be true, shall deliuer the one part thereof vnto them, and the other keep himselfe. And none hauing authoritie to take probate of testaments, vpon paine contayned in this Statute, shall refuse to take any such inuentorie presented or tendred to them. Inuentory of goods.

Prouided, if any person shall dispose or will by his testament, any lands or hereditaments to be solde, that the mony or profits of the same, be accounted for goods or cattels.

And they hauing the authozity aboueſaid vpō the deliuery of the seale & signe of the testator, shall cause the same to be defaced, & incontinent shal redeliuer to ꝑ executor without any claim, and if any require a copy of the testament, & inuentory, thē they hauing authority or their ministers, shal without delay deliuer them a copy, taking therfore, or eis for the registring of the same as before, or euery ten lines 1.d.

Prouided, that where they hauing authority as is aboueſaid, haue vſed to take leſſe for the probate of testaments, or other things concerning the same, then is here specified, they shall take as they did before this act.

Now if any that haue authoritie to take probate of testaments or their ministers, doe attempt against this act, they shall forfeit for euery time to the partie grieued as much mony as they shall take contrarie to this act. And ouer

that

that .xl. the one halfe to the King, the other to the party grieued, that will ſue by action of debt bill, information, or otherwiſe in any of ỹ kings courts, wherein no eſſoin, protection nor wager of the law ſhall be allowed, And euery of them ſhalbe charged for himſelfe, and for none other.

Prouided, that euery one hauing authoritie aboueſaid, may cal before them euery perſon ſo named executors, to the intent to proue and reſuſe the Teſtament, and to bring inuentories, and to do euery other thing cõcerning the ſame as they might before this act, ſo neither they nor their miniſters ſhall take aboue the fees limitted by this act.

How lands and tenements may be by teſtament or otherwiſe diſpoſed, enacted An. xxxij. H. viij.

EVery perſon hauing landes or other hereditaments holden in ſocage, or of the nature of ſocage tenure in chiefe, and not hauing any lands or hereditaments holden of the King by knights ſeruice, or ſocage tenure in chief, or of the nature of ſocage tenure in chief, nor yet of any other perſon by knights ſeruice, may giue, diſpoſe and deuiſe, as well by Teſtamẽt in writing, as otherwiſe by an act lawfully executed in his life, all his ſaid lands or hereditaments, or any of them.

And euery perſon hauing lands or other hereditaments holden of the King in Socage, or of the nature of ſocage tenure in chief, and hauing alſo any other lands or hereditamẽts holden of any other perſon in ſocage, or of the nature

ture

ture of ſocage tenure, and not hauing any here-
ditaments holden of the king, or of any other by
knights ſeruice, may from the ſaid time giue &
deuiſe, aſwel by teſtament in writing, as other-
wiſe by any act lawfully executed in his life, all
and euery of them at his pleaſure: ſauing to the
king all his right of primer ſeiſin and reliefes, Primer ſei-
and alſo all other rights and duties for tenure ſin. Reliefes
in ſocage, or of the nature of ſocage tenure in
chiefe, as heretofore hath been accuſtomed, the
ſame to bee taken and ſued out of the Kinges
handes by the perſon to whom any ſuch lands
ſhall bee diſpoſed or deuiſed, in like manner as
hath been vſed by any heire or heires before the
making of this ſtatute. And ſauing and reſer-
uing alſo fines for alienations of ſuch lands &
hereditaments holden of the King in ſocage, or
of the nature of ſocage tenure in chiefe, wherof
ſhal be any alteration of freehold or inheritance
made by will or otherwiſe, as is aforeſaid.

Item, al perſons hauing lands or other here-
ditaments of eſtate of inheritance holden of the
king in chiefe by knights ſeruice, or of the na-
ture of knights ſeruice in chiefe, may giue, will,
or aſſigne, two parts of the ſame, in three parts
to be diuided, or elſe as much thereof as ſhall
amount to the yerely value of two partes of the
ſame, in three parts to be deuided in certaintie
and by ſpeciall deuiſions, as it may be knowne
in ſeueraltie, for the aduancement of his wife,
preferment of his children, and payment of his
debts, or otherwiſe at his pleaſure. Hauing to
the king aſwell the wardſhip & primer ſeiſin of
as much as ſhal amount to ye clere yerely value

of

the third part thereof, without diminution, doswer, fraud, couin, charge, or abridgement thereof, as also all fines for alienations of all such landes holde of him by knights seruice in chef, whereof shall be any alteration of freehold, or of inheritance made by will, or otherwise. And euery person hauing landes or tenements of estate of inheritance holden of the king in chiefe by knights seruice, and other landes holden of him, or by any other by knights seruice, or otherwise, may giue or assigne by his testament, or otherwise as is aforesaid, two parts thereof, in three parts to be deuided, or else as much thereof as shal extend to the yerely value of two parts, to be deuided in certaintie. Sauing to the king, as well the wardship & primer seisin of as much as shall amount to the yearely value of the third part, without diminution, &c. As also for all fines for alienation, as is aboue said.

Fines for alienation.

Item, euery person holding landes or tenements onely, of any other then the king by knights seruice, and other landes & tenements in socage, or of the nature of socage tenure, may giue, dispose, or assure by testament or otherwise, two parts thereof holden by knights seruice, or as much as shal amount to the ful yearly value of two parts, and also of the landes and tenements holden by socage, or of the nature of socage tenure at his pleasure. Sauing to the Lord of the landes and tenements holden by knights seruice for his wardship, as much therefore as shall amount to the cleare yearely value of the third part, without diminution, &c.

And euery person holding onely of the king by

by knights seruice, but not in chiefe, and also other hereditaments of others by knights seruice, and holding also other hereditaments of any other person in socage, or of the nature of socage tenure, may giue and assure by his last will or otherwise, two parts of that is holde of the king by knights seruice, and two parts of that is holden of any other person by knights seruice, or as much of either of them as shall amount to the full yerely value of two parts, & also all his lands & tenements so holden in socage, or of the nature of socage tenure. Sauing aswell to the king the wardship of as much as shal extend to the clere yerely value of the third part of the same so holden of him by knightes seruice, without diminution, &c. As also to the Lordes of whom any of the said lāds bē holden by knights seruice for ꝑ wardship as much of the same as shall amount to the clere yerely value of ꝑ third part, in maner aboue declared. And if that third part which in any of ꝑ cases aboue said, shal come to the king, do not amount to the clere yerely value of the full third part of all the said hereditaments, whereof the king shall bee intitled to haue the custodie or primer seisin: then the king may take into his handes as much of the other two parts of ꝑ said hereditaments, as with that of the same hereditaments remaining in his handes, shall make vp the clere yearely value of the third part thereof, so to bee had to him in title of wardship and primer seisin. And like benefite to bee giuen to euery Lord, of whome any such hereditament shall be holden by knights seruice, concerning

 onely

onely his third part for title of wardship.

Also al persons shal sue their liueries for possessions, reuersions, or remainders, & also pay reliefes & heriots, like as they should haue done before the making hereof. And fines for alienation shal be paied in the Chauncery vpon writs of Entre in the post to bee obtained there, for common recoueries to be suffered of any lands holden of the king in chiefe, in like maner as is vsed vpon alienations of landes so holden in chiefe by fine or feoffement.

Prouided, that in such cases where fines for alienation shall be paied in the Chauncerie for writs of Entrie in the post as is aforesaid, none other fine shalbe paied ther for any such writs.

Item, where two or more persons hold of the king by knights seruice iountly to them, and to the heires of one of them, and he that hath the inheritance therof dyeth, his heire being within age, the king shall haue the ward & marriage of the bodie of such heire, the life of the free holder or freeholders of the landes so holden by knights seruice notwithstanding.

Sauing to all women such right and title of dower as they ought to haue of any landes or tenements to be assigned vnto them out of the two parts of the said lands or tenements seuered from the third part, as is abouesaid, & not otherwise. And sauing also to the king the reuersion of all such tenements in ioynture, and dower, immediatly after the death of such tenants, if they shal happen to die, during the nonage of the kings wardes.

Of

An. 32. H. 8.

IT is enacted, that from the first day of July in the yeare of our Lord 1540. all Mariages within this Church of England, contracted betweene lawful persons, as by this act we declare, all persons to be lawfull that be not prohibited by Gods law to marrie, such marriages, being contracted & solemnized in ꝑ face of the church, and consumate with bodily knowledge of fruit of children, or childe being had therein betweene the parties so maried, shall be deemed and taken to be lawfull, good and indissoluble, notwithstading any precontract of matrimony not cõsumate with bodily knowledge eyther of the persons so married, or both shall haue made with any other before ꝑ time of cõtracting that mariage which is solemnized and consumate, or whereof such fruit is ensued or may ensue as afore, and notwithstanding any dispensation, prescription, lawe, or other thing granted or confirmed by act or otherwise. And that no reuersion or prohibition (Gods law except) shal trouble, or impeach any mariage without leuiticall degrees. And that no person shall after the said first day of July aforesaid, be admitted to any of ꝑ spiritual courts within this the Kings realme, or any his other landes and dominions to any proces, plee, or allegation, contrary to this act.

FINIS.

This Table doth readily shew where the principall matters contayned in this Treatise are to be found, the letter A. signifying the first page or side: and the letter B. the second page or side.

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